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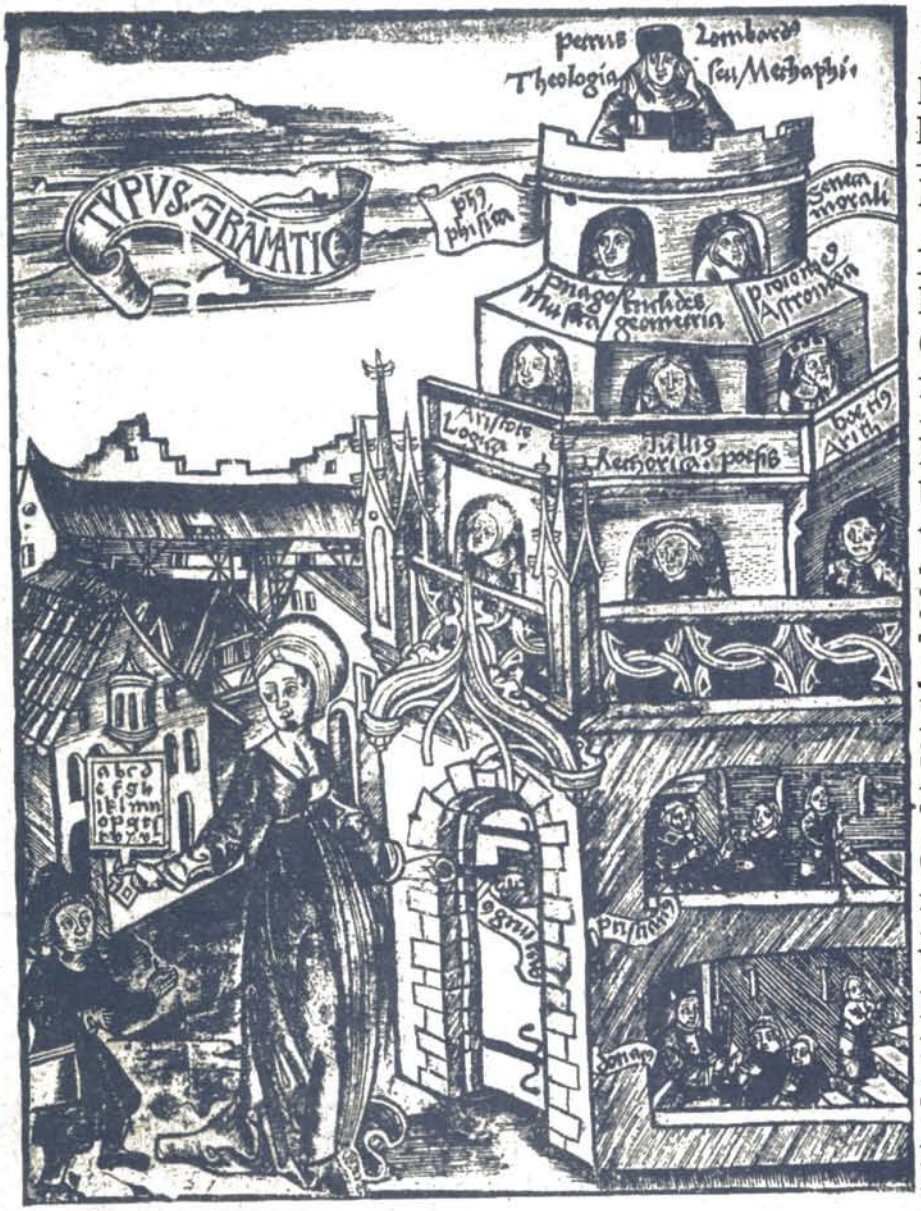

FEBRUARY 2, 1979

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Correspondence

ABORTION & THE CONSTITUTION

RESPONSES TO OUR EDITORIAL

New York, N.Y.

To the Editors: What troubles me most about your editorial [Dec. 8], "Do Catholics Have Constitutional Rights?" is the assumption (indeed, it is more than that, it is closer to an accusation), that those who oppose the denial of Medicaid reimbursement for abortions seek to deny to Catholics their constitutional rights. If there is validity to this accusation our nation is in a sorry state of affairs.

At the trial of the *McRae* case I submitted, in support of the plaintiffs' position, a "friends of the court brief," in behalf of Protestant and Jewish organizations with a combined membership of about 30 million Americans. While the Baptist Joint Committee on Public Affairs, representing perhaps another 30 million Americans, did not join in this brief, its executive director, Dr. James Wood, did testify at the trial in favor of the plaintiffs' position.

Since we must assume that these organizations represent the will of their constituents, as does the Catholic Church in its opposition to governmental funding of abortion for the poor who do not believe that abortion is murder, the conclusion seems to be inescapable that we are a nation of bigots seeking to deny to Catholics their constitutional rights.

Earlier this year I submitted to the Supreme Court a "friend of the court" brief in behalf of the Baptist Joint Committee in the case of *National Labor Relations Board* v. *The Catholic Bishop of Chicago*. There I argued that compelling the Catholic Church to bargain collectively with unions representing parochial school teachers violated the First Amendment rights of the Church. Perhaps the editors of *Commonweal* can reconcile the position taken by the Baptists in that case with the indictment that they seek to deny Catholics their constitutional rights in respect to abortion. I must confess, I cannot.

LEO PFEFFER

Undermining the Court

New York, N.Y.

To the Editors: As one of the attorneys from Planned Parenthood addressed in your editorial, "Do Catholics Have Constitutional Rights?" [Dec. 8], my answer is that the lawyers for plaintiffs in the *McRae* litigation have never questioned and indeed would strongly defend the Constitutional rights of Catholics as we would those of any other group. The issue in *McRae v. Califano* is not freedom of speech, but whether it is appropriate within our constitutional system for a basically religious point of view to be imposed on the entire population.

The Supreme Court decided in *Roe v. Wade* that a woman, in consultation with her physician, has a right to an abortion unqualified in the first trimester, and subject, until the fetus becomes viable, only to restrictions imposed for the protection of her health. The Court held that, since physicians, philosophers and theologians cannot agree on the question of when life begins, the state cannot impose on all women the belief that an unborn fetus is a person.

Two days after the *Roe v. Wade* decision, the National Conference of Catholic Bishops Committee for Pro-Life Affairs declared, "As religious leaders, we cannot accept the Court's judgment and we urge people not to follow its reasoning or conclusions."

Since then, not only Catholics but other spokesmen for absolutist religious views have engaged in a concerted campaign to undermine the Supreme Court's decision.

That campaign led to enactment of the Hyde Amendment, which denies medically safe abortions to poor women—even when a physician believes such abortions to be medically necessary. The legislative history shows that the Amendment was not passed for any reason except the religious belief that life begins at the moment of conception. It does not save the government money, and indeed ends up being extremely costly in those instances where it in fact prevents the termination of pregnancy. It imposes severe hardship upon women whose religious beliefs do not prohibit abortion, including women whose religious beliefs mandate abortion under some circumstances.

Congressional proponents of the Hyde Amendment all justified their position by religious references. Introducing the Amendment, Mr. Hyde said, "The essential question (is) the humanity of the unborn. (A) bortion . . . is the calculated killing of an innocent, inconvenient human being."

The fact that some Congressmen who supported the Hyde Amendment did so, not from personal religious conviction, but, as your editorial points out, "because of a political attitude about government's role in morally controverted issues or a pragmatic belief about compromise in a pluralistic society" does not change the essentially religious bias of the legislation, any more than Protestant votes for federal funding of parochial education in Catholic or Jewish schools would change the religious bias of such legislation. On the contrary, it simply shows that some legislators are prepared, for political reasons, to vote for legislation favored by one religious group in exchange for that group's support. That is hardly the "secular pur-

(Continued on page 61)

Commonweal welcomes letters. Letters of not more than 250 or 300 words naturally have a better chance of being published.

Commonweal is indexed in Readers Guide to Periodical Literature, Catholic Periodical Index, Index of American Periodical Verse, and Book Review Digest. Microfilm from Vol. 1, 1924, to current issues available through University Microfilm, 300 N. Zeeb Road, Ann Arbor, Mi. 48106. Serials Data Program No.: ISSN 0010-3330. Second-class postage paid at New York, N.Y.
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Commonweal, A Review of Public Affairs, Literature and the Arts, is published biweekly, except monthly Christmas-New Year's and July and August, by Commonweal Publishing Co., 232 Madison Ave., New York, N.Y. 10016. Telephone: (212) MU 3-2042. Yearly subscriptions, U.S. and Canada, $20; foreign, $22. Special two-year rate: $35; foreign, $39. Single copy, $1.

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ABORTION, RELIGION AND POLITICAL LIFE

TWO MONTHS ago, when *Commonweal* warned that the First Amendment rights of Catholics and other believers were threatened by the arguments advanced in a class action against the Hyde Amendment, a headline on the magazine's cover asked, "Are the ACLU and Planned Parenthood Listening?" The correspondence in this issue, as well as a thoughtful reply by Aryeh Neier, former director of the American Civil Liberties Union, in the December 30, 1978 *Nation*, indicate that they are. This is gratifying. The difference of viewpoint subsists nonetheless; and we are tempted to complain that though our correspondents are listening, they are not listening *well*. In fact, a reading of these letters persuades us that the difficulty goes deeper than that. What is, to begin with, a dispute over the wisdom of a legal tactic in a Brooklyn District Court, finally leads us to some much larger questions about abortion, religion, and the future of American politics.

But first the immediate issue. Despite the claims to the contrary by our correspondents, we do not think our editorial "distorts" or "misrepresented" their position. We outlined their position very much the way they have outlined it here. We did go on to disagree with their position, which is a different matter. If anything, the distortion—or perhaps it is only a misreading—is theirs. Consider Mr. Pfeffer's letter. It takes the form of a classic *reductio ad absurdum*, as follows: 1. *Commonweal*'s editorial made the assumption, or more properly the accusation, that the plaintiffs in *McRae* "seek to deny to Catholics their constitutional rights." 2. The plaintiffs' briefs plus Dr. Woods's testimony represent the will of 60 million Americans. 3. If *Commonweal*'s editorial is correct, then these 60 million Americans must be bigots, in fact "the conclusion is inescapable that we are a nation of bigots." 4. But, by implication and by the fact that the Baptists, in another case, have supported the Catholic bishop of Chicago, this cannot be the case. 4. Therefore *Commonweal*'s editorial is in error.

Now Mr. Pfeffer is too astute a lawyer not to know that this argument is malarkey through and through. He knows, for example, that neither his briefs nor Dr. Woods's testimony represent, in anything but a formal sense, the wills of 60 million Protestants and Jews, most of whom couldn't tell *McRae* from McGillicuddy and wouldn't know the difference between Leo Pfeffer and Jules Feiffer. (It is equally dubious that the bishops' right-to-life effort represents the wills of American Catholics.) But Mr. Pfeffer's real mistake—or "distortion," if you will—is his starting point. *Commonweal* did not assume that the plaintiffs were *seeking* to infringe on the constitutional rights of Catholics and other believers. We have no reason to doubt the sincere attachment to the First Amendment stated so emphatically by the other correspondents. We do not question, let alone "caricature," the depth of the Methodist Board of Global Ministries' "faith stance" and "faith commitment." Our problem is not with the sincerity and depth of the plaintiffs'

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intentions but with the actual argument they advance and with its possible *consequences*. That argument, we said, rested on poor legal reasoning and adduced a mass of material irrelevant to the constitutionality of the Hyde Amendment. That argument, we said, produced an inflated notion of religion irrelevant to the First Amendment and, should it prevail, having dangerous implications for the First Amendment rights of all believers, Catholics and non-Catholics, and for American political life generally.

It is not a question of distortion, then, but of disagreement. And these letters, like Mr. Neier's response, do make clear exactly where the disagreement lies. For these correspondents, the Hyde Amendment's suspension of Medicaid funding for abortion expresses "a basically religious point of view," "the religious belief that life begins at the moment of conception"; it involves "essentially a religious question," "a controversy over religious doctrine." Or as Mr. Neier sees it, it is a view "exclusively rooted in theology and supportable only by an act of faith" and which therefore "lacks a valid secular purpose."

But to invoke the word "religious" is not enough, a point upon which Mr. Neier helpfully expanded: "Plainly, mere concurrence with a religious code does not render governmental action improper else much of our criminal law would be invalid because it agrees with, and may even be derived from, religious principles. . . . What principles can guide us in determining whether a governmental action violates the First Amendment's proscription of all laws respecting an establishment of religion?"

Mr. Neier, like the plaintiffs' brief and like our editorial, considered three principles: that the law have a valid secular purpose, that it not have a primary effect advancing or inhibiting a religion, and that it avoid excessive entanglement between church and state. Like the correspondents in this issue, he feels that the first of these points is the critical one in *McRae*. He finds that no valid secular purpose can be discovered behind the Hyde Amendment unless one accepts "those theologies that teach that actual human life exists from the moment of conception."

A rather fanciful exchange between Mr. Neier and a *Nation* reader further defines the issue at hand. This reader, a professor of law, a supporter of abortion, and an opponent of the Hyde Amendment, found Mr. Neier's conclusion "not just wrong, but absurd." He argued that one by no means had to consider fetal life equivalent to human life to find that its protection was a valid secular enterprise. "Assume with me for a moment that a fetus is nothing more than a fish. Does that mean that Congress could not constitutionally legislate to protect it? Of course not. On the contrary, Congress has enacted valid legislation to protect not only whales but snail darters." To which Mr. Neier replied, as law professors will, "Assume the existence of a religious society, Porgyism, which venerates fish and which secures the passage of an anti-abortion law in order to preserve the fetus in its fish stage. . . . *If that view is not generally shared and it is discovered to be grounded exclusively in the doctrines of Porgyism*, the law should be susceptible to attack as a violation of the First Amendment. . . ." (Our emphasis.)

This is to travel far from the tragic dilemmas that are at the root of the controversy over abortion and especially over the Hyde Amendment. But at least it clarifies something about the kind of "religious" belief that the First Amendment prohibits from translation into civil law. Is the desire to protect fetal life, even by withdrawing government funds for abortion, not generally shared? Is it grounded exclusively in the theological doctrines of one or several religious denominations?

THE FIRST problem that the plaintiffs' argument must confront is that not one but three major religious groups—Catholics, Orthodox Jews, and Mormons—are stringently opposed to abortion, and that they are joined in this outlook by a sizable number of Protestants. While all these faiths reach similar conclusions about abortion, moreover, they do so by a variety of theological routes. All of this suggests that the concern for protecting fetal life, like the concern for racial equality or for aiding the poor, ought to be treated as a general question of human justice, quite apart from the particular theological rationales that have been presented to support it.

Such an impression is reinforced when one looks at actual public belief in the United States about fetal life and government funding of abortions. In 1975, for example, the Gallup Poll asked the following question:

> It is sometimes said that the morality of abortion rests on the question of when one thinks human life begins. For example, some people believe that it begins at conception, that is, when sperm and egg first meet. Others say that it begins only when the woman first feels movement inside her (what is sometimes called quickening), and still others say that human life has begun when the unborn baby could probably survive if it were born prematurely. Finally, there are those who hold that human life begins only with the actual birth of a baby. Which of these alternatives best expresses your views?
>
> 1. Human life begins at conception.
> 2. Human life begins at quickening.
> 3. Human life begins when the unborn baby could probably survive on the outside if it were born prematurely.
> 4. Human life begins only at birth.

The table at the top of the next page sums up the responses. Forty-three percent of the men and fifty-eight percent of the women believed that human life began at conception—far more than chose any other moment. But let us go directly to the question at hand. In 1975 Gallup also asked its cross-section whether they were for or against providing abortions at government expense. Fifty-seven percent were against, 35 percent in favor. This figure compares with the findings of a poll of 9,000 voters leaving voting places last November. Only 44 percent of Democrats and 37 percent of Republicans favored government funding for abortion. In addition, both belief in the "humanness" of early fetal life and opposition to government funding of abortion appear to be increasing, not declining.

Why cite these statistics? Neither morality, nor law, nor constitutionality can be determined by public opinion poll.

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Time Life Begins	Men			Women		
	Catholic	Non-Catholic	Total	Catholic	Non-Catholic	Total
At conception	52	41	43	75	52	58
At quickening	17	14	15	13	17	16
At viability	15	14	14	4	13	11
At birth	13	22	20	7	11	10
Don't know/other	5	9	8	1	7	5

The wording of polls can always be faulted. A majority, or a plurality, does not settle a profound moral question. The Hyde Amendment may be an unwise or unjust measure even though a clear majority supports it. But the sentiments it represents are obviously widely held throughout American society. There is no evidence that they are held "exclusively" on the basis of the theological doctrines of one or several "Porgyisms." There is no evidence for the theme that runs throughout the plaintiffs' case: that a narrow or particular theology is being "imposed" on the mass of citizens.

THIS BRINGS us to another critical point. While abortion can be debated in strictly theological terms that demand what Mr. Neier calls "an act of faith," it can be, and is widely, debated in terms accessible to any rational person. In this, it nowise differs from debates about basic human equality, warfare, torture, capital punishment and a host of other public issues. The plaintiffs in *McRae* considerably confuse this matter by pointing out that there is no "scientific consensus" on the value of fetal life and suggesting that the only alternative to a "scientific consensus" is a "religious consensus." Since there is no "religious consensus" either, for society to take any position at all on the question is to prefer one religious view over another. (Presumably, however, if there were a "religious consensus," that would be equally illegitimate in their reading of the First Amendment.) But science simply does not provide any answers at all to many of the deepest human questions. Throughout history, there has been no "scientific consensus" that individuals, or races, are fundamentally equal. If anything, the "scientific consensus" has been the other way. (And in many times and places—colonial America, Nazi Germany, South Africa today—there has been no "religious consensus" either.) To conclude that society must therefore abstain from judgment on these questions is nothing less than disastrous.

There are volumes upon volumes written on abortion, pro and con, which do not draw upon theologies "supportable only by an act of faith" but on science, philosophy, and legal and ethical traditions. The plaintiffs are fond of an analogy with the Jehovah Witnesses' belief about blood transfusions, but they cannot point to any comparable literature about the morality of blood transfusions. The Witnesses' belief, based on their special understanding of divine revelation in scripture, is like the Catholics' belief in the Real Presence—a distinctly theological issue. The morality of abortion, like the morality of capital punishment or of the Vietnam war, is not in the same category. There is a kind of moral reasoning, informed by science, informed by philosophy and political thought, informed by religious traditions, that can legitimately be the basis for majority decisions in a pluralistic society. To somehow place this kind of reasoning—and the politics that, in rough and ready form, accompany it—under the ban of the First Amendment's no-establishment clause would be to abandon much of our political and moral heritage and to reduce political life to technocratic engineering.

WE ARE now squarely up against the larger issues signalled in the *McRae* case. We do not pretend that anything about the abortion debate sits comfortably with us. There is no shrugging off the tragic choices to which our correspondents refer, tragic choices that in the instances affected by the Hyde Amendment are intertwined with a poverty that is unwarrantable in the first place. We understand the reasoning of the right-to-life movement that it must take a stand against abortion wherever it can. But it is more than slightly troubling that the most notable case of its effectively taking a stand should bear, not on the well-off, but on precisely those whom life has already burdened and who have, again and again, been the objects of society's disdain and neglect. It is even more troubling when the right-to-life movement aligns itself so thoroughly with those forces which have been most recalcitrant about social welfare. The recent action of the National Right to Life Committee in choosing a 1980 "hit list" consisting almost entirely of liberal Congressmen, as well as the movement's performance in the recent election, raises the question whether "right-to-life" will become nothing more than "life-to-the-right," a manipulative adjunct to the new right-wing politics.

Of course, the left already sees the anti-abortion movement that way. It makes little effort to understand the position of abortion opponents, writing them off as "absolutist," a curious adjective that one never finds applied to those who will brook no anti-Semitism, no sexual inequality, or no corporate bribery. The left becomes utterly careless in its language about the issue of abortion, using terms like "coercion" or "compulsion" (as in "compulsory pregnancy") whether referring to the flat prohibition of abortions or (a distinguishable matter) the refusing of public funds for them. The left repeatedly insists that those opposed to abortions are free to have them or not, which is to miss the whole point of the conflict, namely their belief that the life of another party is at stake. For pro-lifers the proper analogy with the Jehovah Witnesses is not the adult Witness who conscientiously refuses a blood transfu-

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sion for himself or herself but the Witness parent who conscientiously refuses a blood transfusion for a minor child—a choice the courts have consistently not allowed.

The left has every reason to be solicitous about the roots of the moral impulse in politics. Without that impulse the left itself is bankrupt. There are plenty of "managers" and "experts" from everywhere, and from nowhere, on the political spectrum willing and able to oil the wheels of the status quo more efficiently than the left can. One of the roots of the moral impulse, if not the tap root, is religion. The left has not attended much to this fact, partly due to the historical conflict between the Enlightenment and the churches, partly due to the left's concentration on problems of physical deprivation, often and unfortunately to the neglect of questions of meaning, identity and integrity.

In our original editorial, we asked why the First Amendment argument against *McRae* would not equally apply to various other struggles, honored or supported by the left, in which religion and organized religious groups have taken leading roles. Our correspondents have not answered this question. If the example of a supposedly improper "religious reference" made by Congressman Hyde and cited in the letter from Ms. Paul is taken seriously (what if the congressman had said, "The essential question is the equal humanity of blacks. Apartheid . . . is the calculated oppression and exploitation of innocent, inconvenient human beings"?) the implications of the *McRae* challenge are vast.

Our real complaint against the plaintiffs in *McRae*, then, is essentially our complaint against the bishops and so many right-to-lifers. In their single-mindedness about one concern, they are running rough-shod over numerous other values to which they owe responsibility. It is noteworthy that the First Amendment argument which these letters treat as so obvious did not figure in their original legal action. It was added to their case only after the Supreme Court appeared to reject their other grounds for the Hyde Amendment's unconstitutionality. We don't think they have pursued this unfortunate course because of any conscious wish to infringe the rights of believers and put up obstacles to the exercise of Americans' deepest values in the political arena, but because their zeal for the immediate cause has blinded their larger vision.

Of several minds: *John Garvey*

SICK, SICK, SICK—OR EVIL

'BUT DELIVER US FROM A POOR SELF-IMAGE, AMEN'

"MODERN SCIENCE has painted a picture of the universe which is humbling to the human ego. But while destroying astronomical geocentrism, it has assumed what might be called a psychological geocentrism. What are the limitations of knowledge that man's ordinary state of consciousness places upon him? This seems never to be a question for the modern temper."—Jacob Needleman, in *The New Religions* (Doubleday, 1970).

First there was Jonestown, the pathetic story of people who called Jim Jones "daddy," and then a couple of weeks later police in a Chicago suburb were digging up bodies under the home of a man who dressed up as a clown to entertain children. We are repelled, fascinated and numbed as we read about events like these. Our usual response is to say that such people must be sick. They *must* be—right?

I wonder about that. I wonder about our inability to use the word "evil." Perhaps it is the fact mentioned recently by a friend of mine, a psychologist: we have psychologized all our experience, as if a description were the same thing as an explanation. Having found a few clear patterns we think we have all the answer we need. Adultery, for example, isn't evil anymore; it is hardly a choice. It is a way of telling your mate something, telling yourself something, a response to deprivation, whatever—but it isn't wrong. We know better now. There are experts in something called "values clarification" whose role is to help us "find out what our values are," as if values lay deep in our psyches, to be uncovered like buried treasure. When in our ordinary experience moral choice is so reduced, we are really at a loss when we bump into something spectacularly hideous.

The word "sick" is being stretched very thin these days. Manson, Hitler, Idi Amin, mass murderers, cooperators in mass murder, Calley, the Shah's torturers—all are either "products of the system" (so choice isn't involved), or they are "sick," part of a class which includes people who get migraines, flu, colds and measles. Ah, but this is mental illness, a very mysterious thing. . . .

I want to suggest this heresy: Jim Jones, Charles Manson, and all their company are creatures like us. We could do what they did; we would even be likely to, under conditions which brought us to the moments at which they made their worst choices. To say that they are "sick" allows us to avoid this possibility. It makes them *other*. They caught some special virus, some weird bug that makes them *not like us*—and that's what counts. If they were brought to the dreadful places in which they made their fame by anything involving choice, we're all in trouble.

I remember an interview with a refugee from Uganda, a man who had been prominent in the government there. American newsmen asked if he thought Idi Amin was insane. No, he answered, he isn't. He knows precisely what he is

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doing. He is evil. The newsmen persisted: of course he must be sick . . . how else could he do those things? The Ugandan answered that as long as the newsmen thought Amin was sick, they couldn't understand what was going on in Uganda. And of course they couldn't. It is less unsettling to think that a man like Idi Amin is ill than to think that he might have chosen to be what he is.

But given Charles Manson's sad foster home rambling, Jim Jones's lonely childhood, and later his being the object (or victim) of an adulation which could turn almost anyone so alone from the start into a false messiah—given things like this, who can speak simply of evil?

The point is not to speak of it simply, only to speak of it at all. In the twentieth century (the time of Auschwitz, the Gulag, China's rape of Tibet, Hiroshima) we find it difficult to accept the fact that there is something which does not love humanity, but delights in negation and destruction. It is not at all obvious in most of its workings; it can enter our lives through our need to be loved, our desire to be regarded as important and interesting, our fear of inner emptiness. It is there at the center of what we want, or think we want. As disturbing as it may be to think that there is a real connection between our own casual insensitivity and the crime of the most vicious murderer, if thousands of years of testimony about the human heart have anything to tell us, there is a link. The power of evil can work its way up from the heart's emptiness to murder. Hubert Selby's novel *The Demon* is a compelling fictional portrait of a real process: a sexual obsession which seems light and innocent enough at the start leads, finally, to murder and suicide.

The first time you encounter the writing of a saint who claims to be the most evil of men, you are likely to think of this as a sort of bragging. How could he be, really? Murderers must be worse, of course; what is an unkind flare-up, immediately regretted, next to murder? The point, of course, is that the person whose life is lived at the edge of religious awareness is conscious, moment to moment, of choices which are only apparent to the rest of us (and to the murderer, for that matter) once in awhile. When Saint Anthony went into the desert to face himself and God, he did not find in himself a poor self-image. He found demons. (The most impressive Christian I have met said to me once, "If God can save me, he can save anyone." There was no false piety, there was nothing at all false, in his words.)

There is no denying that an extreme consciousness of the choice between good and evil can be taken too far. A sense of life which is too constantly critical can lead to neurotic misery. But the belief that as we are, we are more or less all right—this is crazy. It means that we are willing to settle for being less than we *must* be; every great religious tradition is clear about that much. The religious tradition most readers of this magazine are familiar with speaks not only of a good God, but also of the "prince of this world," the world's tormentor. There is a bad, if classical, idea that evil is merely an absence of good, a lack. But it is not a lack which had the power to murder millions under Hitler; it was an acquiescence to evil, which is real. It is not enough to look at the economic conditions of post-World War I Germany to explain the holocaust, nor can the bloodshed in Uganda be explained by searching for clues in Idi Amin's childhood. At what point does choice enter these things? It may not be possible to pin that one down scientifically, but it is an absolutely essential question. Maybe because it defies our current demand for objectivity, for the appearance of hard scientific data (a superstition as silly as any), the question of choice will continue to be ignored. Never mind the fact that answering it is quite literally a matter of life and death.

JOHN GARVEY

Of several minds: *Thomas Powers*

ON KILLING A DEER

IS THERE MORE SUPPORT FOR BOMBS THAN BUCKSHOT?

LIKE MOST readers of *Commonweal* I have never killed a fellow human, but I did kill a Whitetail deer once, and it was an interesting experience. I did it in the morning, not long after the sun came up, and I used an old double-barreled 12-gauge shotgun which had belonged to my grandfather. My grandfather was a meticulous man; he would no more have put a gun away uncleaned, than he would have appeared in his office without a tie. When I snapped his shotgun together, sitting in the kitchen with my brother, the barrels were as free of pits and rust inside as they'd been the day the gun was bought.

It was dark outside; the season opened at daybreak and it wouldn't do to miss first light. The deer would still be out feeding, or heading back up into the woods along their accustomed trails. Later, when the season was well underway, they'd be spooked, running outside their usual territories, and finding a deer would become a matter of accident. Before we left I put four or five shells into my pocket, rifle slugs about as big as the end of your thumb, weighing perhaps an ounce each. I didn't like buckshot, which consists of six or eight lead balls; you were more likely to hit what you were aiming at, but you were also more likely to wound than to kill.

There is no other feeling quite like going armed into the woods after game. It is not exactly exhilarating, but it is certainly not flavorless or dull either. You are consciously alert, you are inclined to pay attention and not daydream, you are cautious and serious because you are out to kill something but do not want to kill the wrong thing. It is well-known that some hunters go into the woods in a reckless frame of mind and occasionally shoot dogs, cows, or even other hunters. In school I had a good friend who had been badly wounded on a deer hunt with his father

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when he was twelve or thirteen. They had been sitting in a clump of brush near a deer trail in Maine. My friend had shifted position and a hunter fired two quick shots at the rustle. Both bullets passed through and shattered my friend's left forearm. My friend's father shouted and the other hunter ran away. It goes without saying that every hunter lives in dread of doing something similar.

But that is not entirely what I mean when I say you don't want to kill the wrong thing. An element of delberate choice is involved. When you see a deer you must decide that this is one you are going to fire at. If it's too far away, or moving too quickly, or there is too much brush intervening, or the horns are not absolutely and certainly visible, then you probably shouldn't fire. The idea is not simply to kill something, but to bring it back and eat it. No hunter *ever* leaves a legal deer in the woods because he's had his fun and it's too much trouble to drag out. That is truly unthinkable. The entire exercise is a good deal more difficult, but no less deliberate, than picking a head of lettuce or an onion or a green pepper in the garden. You don't pick just any head of lettuce or green pepper, but ones which look like they'll make a good salad.

When my brother and I left the house at about five o'clock that morning I wasn't entirely sure I would fire even if I did see a deer. My real reason for going was to keep my brother company; hunting is more fun when you've got somebody to talk about it with at the end of the day, and I just felt like being with my brother. The urge to hunt was fitful at best.

There had been a time, when I was ten or twelve, when hunting was something of a passion. My grandfather had given me a Remington pump action .22 caliber rifle, a beautiful little gun, and I was a pretty good shot, but for quite a while I just *could not* figure out how to get close enough to a woodchuck to kill one. I was very interested in American Indians at that time, American Indians were of course legendary hunters, and it was extremely important to me to prove I could at least shoot a woodchuck. The Plains Indians, after all, had practiced stealth by creeping up behind prairie dogs and grabbing them by *hand*. I picked out a woodchuck living in the middle of a four- or five-acre field above the house and determined that I was going to get it.

For two weeks I went after that woodchuck twice a day, at dawn and again in the evening, when it was out feeding. An old stone wall ran up the north side of the field and I sometimes spent as much as an hour creeping up along the far side to get into a position to shoot. The wall was down in places and I had to snake through the grass to keep out of sight. Somehow the woodchuck always heard or smelled me, or I missed on the few occasions when I fired. As time went by the difficulties increased because the field, freshly cut when I began, was growing up to a second crop of hay. It was hard to see the woodchuck unless he popped up for a look around.

Finally one night I got into position, waited and waited and *waited*, trying to pinpoint the woodchuck's hole. Suddenly he popped up for a look off down the field. He was in perfect silhouette. I aimed carefully, held my breath, and squeezed the trigger as I'd been taught to do. The gun fired and the woodchuck, as so often before, disappeared. I was stunned. I couldn't believe I had missed. I picked up a stick and walked over to the hole, thinking to leave a marker so I'd know where to look the next time.

When I got there the woodchuck was dead at my feet, a bullet through its brain. I was thrilled. I carried it down the hill and my mother took a picture of me holding it up by the tail, looking as proud as an Olympic gold medalist. The housekeeper of a farmer who lived down the road, an Indian woman, skinned the woodchuck for me in return for the meat, which she made into a stew. I scraped the hide and salted it, dreaming that one day I might have enough for a blanket.

I kept that hide for a long time. Finally it just disappeared, as lone and useless things do. My appetite for hunting evaporated abruptly a summer or two later when I shot another woodchuck in the same field as the first. I'd been out walking with my gun—not hunting exactly—when I came over a rise in the field and found a woodchuck sitting up in front of its hole, staring at me, not twenty feet away. I raised my gun and fired, knowing this was a mistake. It fell down dead. A terrible remorse came over me. I didn't want that woodchuck, I hadn't been hunting, I had simply killed it automatically, the way a man might idly step on a beetle and turn his foot. I'm pretty sure I never killed another animal for ten years from that day until the morning I went deer hunting with my brother, secretly thinking I probably wouldn't shoot even if I saw a deer. I went to keep him company, and I carried my grandfather's shotgun because if you don't have a gun you aren't really hunting, but I remembered the terrible remorse of ten years before and did not think I'd pull the trigger.

We followed an old road up the side of a mountain in the dark and emerged above a large hayfield just as the sky began to lighten. At that point my brother and I split up. It was going to be a beautiful day, clear and not too cold. When it was fully light I continued up the mountainside through a birch woods, then turned and headed down the valley. It was easy going but noisy underfoot because the leaves were dry. When I came to a logging road I sat down on a stump to wait for my brother.

After awhile I heard footsteps coming from the opposite direction. It sounded like another hunter scuffing through the leaves, step after deliberate step. I wondered if I'd know him. Then the rhythm changed, a whole series of steps came in rapid succession, the gait of a creature with four legs, and I knew instantly it was a deer. A moment later it emerged from the brush on the far side of the logging road, a young four-point buck with a sleek coat, surprised but not quite yet alarmed to find me there, less than 30 feet away. You couldn't ask for a better shot. I slipped off the safety, raised the gun and aimed at the hollow of the throat where the neck meets the trunk of the body. The buck was absolutely motionless, waiting for me to pull the trigger, so I did.

There is nothing unnatural in killing

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things to eat. Everything we eat was alive at one point, and none survives the eating. Some we eat while they're still alive—apples and oysters, for example—and others have got to be killed first. It's generally assumed that the nervous systems of plants are too rudimentary to register what's happening to them. Fish and fowl are complex enough to struggle to get away, and cows and deer will stare you in the eye, mammal to mammal, with a degree of comprehension which can be unnerving. We kill and eat all alive, three or four thousand calories' worth a day, if we can get them. We do it—or at least, we used to do it—as naturally and easily as the lion devours the lamb.

But civilization brings refinements. Few people ever see what they eat before it gets to the supermarket. The result is a certain fastidiousness. No one is surprised when kids turn up their noses at the idea of eating snails, and can hardly believe it when told that Indians along the Amazon may idle away an afternoon catching and eating flies. What is new is the fact that kids are not much less shocked or disgusted to learn that lamb chops actually come from lambs, that chicken legs are, indeed, legs; that beef is just a word for the flesh of cattle, and that all are killed, drained of blood and cut up into manageable portions so we can eat them.

Around the corner from my house in New York is a large Italian grocer and specialty foodstore called Balducci's, which recently opened a new meat department. A special refrigerated window display was included, stocked in the customary manner of Italy. Ordinary enough by the standards of Florence or Rome, it is a bit of an anomaly in New York. On the day of the new department's grand opening the window was gorgeously filled with quarters of aged beef, large white rabbits, a pheasant, suckling pigs, lambs, all hanging from gleaming metal hooks. With the exception of the beef, they all retained both head and hide. That first day I stopped to look as a mother walked by with two children. They stopped in front of the window, and their faces gradually registered unmitigated horror as they realized those furry little bodies with the cute cup ears were . . . dead baby lambs. The kids weren't alone either. Adults registered a similar horror and shock, as if it were somehow brutal and indecent to display a dead animal in anything but bits and pieces in snug plastic wrap.

Urban Americans don't like thinking about the origin of the meat they eat. They certainly don't want to watch the killing. For very good reasons killing has got a bad name, but the prohibition has grown general, and there is a popular confusion of the killing of men in anger with the killing of animals for food. A great many Americans think that hunting, in particular, is willful, cruel and perverse, not much short of criminal. They're not speaking simply of "hunters" who don't know what they're doing, but of hunting itself. Because Americans don't *have* to hunt the practice is gratuitous, and therefore cruel, and therefore wrong. The argument strikes me as weak; if it's all right to kill animals in a slaughter house, what's wrong with killing them in the woods? The point is not the argument—one might wrestle with its refinements for 10,000 words—but the intensity of feeling behind it. I've heard the "sport" of hunting denounced in terms as passionate as those used for the dropping of napalm on villages in Vietnam. I'd be willing to bet, in fact, that there is a broader general support in America for building cruise missiles and the neutron bomb, than there is for the right of men to go into the woods with guns in order to kill deer.

It's hard to fire something as large as a 12-gauge shotgun, which has a loud report and solid recoil, without instinctively flinching. When my eyes opened that morning the buck was gone and for a moment I thought I had missed—incredible at that distance!—until I walked over and found a large gout of blood on the leaves where he'd been standing. Not a drop or two, but a great splash, a deep and brilliant red. Perhaps twenty feet away down the hill was another, and beyond that another. It did not take a Natty Bumpo to follow the trail. I found the buck, dead on his side, not more than 75 yards down the hill. The slug had entered the lower throat, destroying the heart and a good deal else in the chest cavity, and opening his veins and arteries in a manner which pumped out all but a cupful of blood in ten or twelve bounds down the mountainside. It was a clean kill.

The deer's eyes were open, large, liquid and brown, and I half expected a sudden regret as I looked into them, but nothing of the sort happened. I took out the knife I'd sharpened the night before and field-dressed him, cutting open the chest and belly, pulling out the viscera, removing the testicles and anus and scent glands. His innards steamed in the cold air; I was startled by the heat. He was not lukewarm inside, as I'd vaguely expected, but actually hot, and that heat somehow elicited in me an extraordinary sense of kinship with the animal I had just killed. What I was doing did not seem cruel or unnatural at all, but like an exchange for which I ought to, and did, feel gratitude. For the first time I understood something I'd often read about years before, that special respect and intimacy which the American Indians expressed for the animals they killed and ate.

When the deer was dressed I tied a rope around his horns and dragged him down out of the woods. His body slid easily over the leaves. After I got home I hung him by the hind legs from a barn rafter and my wife came up to see him. It was still early in the morning, not yet nine o'clock, and she was just finishing a second cup of coffee. She came up around the barn, took one look at the deer hanging there, and burst into tears.

Later I tried to explain what killing that deer had been like, the instinctive feeling, with my hands plunged into his hot interior, that I had purchased a part of my life with his. The gift of that warmth was as stunning as a sunset. It's a primitive thing, but then so are loneliness, fear of the dark, the love of children. But I didn't get very far. My wife said she was sorry, she couldn't explain it, but she simply could not have anything to do with that deer. So I gave it to my brother, and at Christmas-time was invited for venison stew. It was delicious.

THOMAS POWERS

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Reviving the connected view

BERNARD MURCHLAND

BILL ARMSTRONG was a June graduate from a selective liberal arts college in the Midwest. I had occasion to go over his transcript shortly after graduation and was struck by some rather remarkable gaps in his education. He had taken no history, no philosophy, no English literature, no math, no art or music, and only minimal science (two courses in environmental chemistry). Yet he graduated with honors.

Armstrong's case gave me but one more opportunity to reflect upon the lamentable state of the liberal arts today. There has probably never been a golden age of the liberal arts. But some ages are more golden than others. By all the evidence, we are today at a cyclical low.

I

In what follows I want to make some suggestions for the reform of liberal education along three broad fronts. First of all, liberal education should impart the basic elements of a cultural formation. It should convey a dramatic sense of what the greatest minds have thought, what the greatest artists have wrought, what the greatest leaders have done. The premier assumption of the liberal arts is that it is intrinsically worthwhile to know the great ideas and deeds that shaped the past and shape us. This assumption does not deny the importance of new knowledge and recent discoveries. But once the Antaeus connection to historical ground is broken, the liberal arts float aimlessly in a false element and are easily crushed.

A liberally educated mind develops the ability to reach backwards in time, to identify imaginatively with the past. Without this vital connection our mental and moral abilities are markedly foreshortened. John Henry Newman makes this point in his *The Idea of a University*. "The truly great intellect," he wrote, "is one which takes a connected view of the old and the new, past and present, far and near, and which has an insight into the influence of all these on one another without which there is no whole, no center. The truly great intellects possess knowledge, not only of things, but also of their mutual relations."

G. K. Chesterton made the same point in an interesting way. We often talk of the past as though it were dead. But, says Chesterton, it is the future which is dead. The past moves on living lines whereas all futurism must be a sort of fatalism for it cannot foresee the "free part" of human action. "When we look at what men did," he says, "we are looking at what they freely chose to do. But when we consider what men will do, we cannot consider what they will choose to do." The future lacks the line of freedom that is clearly written in the past.

The iconoclastic assumptions underlying our prevailing educational philosophies are future directed and hold the past in low esteem. Since at least the time of Descartes intellectuals have instinctively predicated the future upon the demolition of the past. The house of knowledge must be built upon new foundations. "Make it new," Ezra Pound advised the poets. And educators have taken him even more seriously than the poets. On all sides voices are raised to praise "plastic mobility," "open experience," "the apocalyptic imagination," "the destructured self," and so forth. Let us have done, they proclaim, with the old centered notions of coherence and structure. The ethical imperative implicit in such pronouncements is that we must renounce belief in the possibility of gaining any reliable purchase on the continuity of human experience.

The recent history of educational theory is a veritable junk heap of discarded ideas and experiments. Beholding this sorry sight we quite naturally come to think that the solution to all our problems, the finest ideals and values, lie somewhere in the future. And, like Macbeth, we want the future in the instant. The principal fruit of this frenetic seesaw of innovation and rejection is what is quite likely the most ignorant generation of students in the country's history.

I think again of Bill Armstrong (whose name has been changed to protect the guilty). The hodgepodge of courses that constituted his liberal arts education evinced no sense of

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connectedness, no principle of integration. While they fulfilled certain distribution requirements and conformed to what currently passes for the notion of a "well-rounded" education, it was clear that they were chosen pretty much at random. Nowhere in the courses he had taken could one discern anything like a liberal core.

WHAT WE ARE confronted with here is a crisis in academic authority, in the dual sense of determining the proper ordering of subject matters and then enforcing that order. Until we overcome this crisis, it seems to me, all talk to the effect that we are liberally educating our youth is mere posturing. We do not seriously raise the question of academic authority primarily because it is an unpleasant subject. It stirs up too many vested interests and prejudices. It lays one open to charges of authoritarianism and elitism. It means that faculty would have to readjust their allegiances from disciplinary to institutional goals. It means that students would have to be told that some subjects are indispensable to their education no matter how they might feel about it, or how much they might dislike those subjects. It means, too, that administrators would have to abandon many of their self-indulgent power games and accept the creative burden of overseeing a more discriminating arrangement of the academic estate. Finally, it means that society at large would have to alter radically many of its present expectations; indeed its present conception of education as narrowly cognitive, value-free and career-oriented must be substantially revised. But the alternative may in the long run be not only equally painful but disastrous as well. Mankind, says Ivan Illich, may wither and disappear because it is deprived of basic structures of language and law and myth just as much as it can be smothered by pollution. Future shock can destroy what is human just as much as anything else.

Against this prospect liberal education can erect a restraining wall by driving deep into the mythic substance that forms the human pattern in any age. The connected mind is one that has deep tap roots in the collective memory of the race and measures its present possibilities for joy and despair, for achievement and failure against this memory. From this point of view we may say that a principal goal of a liberal arts education is, as a poet has put it, to build a memory house.

II

A second mandate of liberal education is in the realm of value formation. Few would deny that college education has some impact on student values. But it is far from a radical impact. For the most part, education merely reinforces the values students already have, at least in a latent state, when they come to college. Education also has significant success in imparting those values that are particularly required in a technocratic society such as tolerance and flexibility. By the same token, it tends to have an iconoclastic effect upon such traditionalist values as community and worship. As Howard Bowen pointed out in his recent *Investment in Learning*: "College seemingly does not have a marked impact on attitudes of altruism and philanthropy, leading to kindness, sympathy, unselfishness, sociability, or friendliness toward other individuals." Bowen also noted that the college educated are not notably happier than others.

As I write I have before me a report of a values clarification study recently done in a GLCA college. Students, the report stated, are not generally concerned about major social issues. The majority of faculty queried agreed that the value dimensions of the various disciplines were little stressed. Few, for example, consider it important to declare their own value stance in the classroom.

Let me try to be a little clearer about what is meant by values here because it is a tricky word. Obviously no one thinks colleges should impose values on students. Nor is it a question of trying to reach value agreement. My understanding of value formation is based upon the following premise: all ideas and intellectual systems take rise from prior value assumptions and have ethical ramifications in society and in individual lives. Students should be trained to detect the value matrix out of which theories emerge and become familiar with how values are formed and operate in society. They should become, let us say, value alert. To grasp adequately any idea or ideology is to grasp the motivational bedrock upon which it rests. Students should, in addition, be taught the psychology of choice and made familiar with the techniques of internalizing values. To choose is to be, said Sartre, drawing attention, with a dramatic turn of phrase, to what has always been one of the linchpins of liberal education.

The point is, liberal education should aim to make value issues central to the intellectual life and to make it clear that a college, like other organizations, is a community of moral agents. One might conceive of value formation along a spectrum with a negative and a positive pole. At the negative pole, one searches deeply into the causes of human alienation and the conflictual situations of life. What is it that causes human ills and forces life's energies into shallow channels? At the positive pole one considers the legitimate ends of human conduct, those ideas that are indispensable to human fulfillment. The ultimate value questions remain essentially unchanged: what is the good life and how are we to attain it?

We have affluence and technology and are knee deep in a sensate culture. No one would ever accuse us of being lazy for we multiply problems faster than we can solve them. We keep busy. The work ethic still holds some appreciable place in our scheme of values. Power and acquisitiveness rate high too. But how seriously do we take the good life and inquire into the modes of human happiness? How steadily do we focus on the most important question of what it means to be human, on what Pascal called the grandeur and the misery of man? We are, after all, a most strange species! Halved by sexuality, stunted in our evolution, semi-paralyzed by a consciousness of mortality, yet capable of wondrous deeds. This human datum is the gravamen of any brief for the liberal arts. It is the most worthwhile subject for study of all. Resistant and elusive at first, it in the end repays our efforts with delight. Thus it is that so many philosophies have come to

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rest in the realm of contemplation. When we study the human situation in depth and at length we can find reason for great joy.

But we would scarcely suspect this from the manner in which our typical curriculums are plotted. In the many interviews I have had with students over the years, uninspired teaching and dull subject matter are constant complaints. They are taught, year after year, mountains of facts on the pedagogical assumption that knowledge consists of simple parts, hard blocks of information that can be transferred directly and explicitly from the instructor (usually via the lecture method) to the students. They are then expected to rerun this information through some kind of testing procedure like the objective examination or research paper. In this way they are evaluated and eventually accredited. Constant testing of this sort gradually conditions students to the current expectations of the job market and the graduate schools. But by and large it leaves value issues untouched and whole areas of the student personality dormant.

One might expect the humanities at least to hold out. To some extent they do, bobbing like a frail raft in a vast sea of objectivity and value-free methodologies. But in the main they too are subject to the hegemony of the graduate schools and the inflexible model of rationality they impose. Philosophy has become notoriously analytic and wordchopping. Historians want to be considered social scientists. Psychology and sociology, which for many good reasons could lay claim to being humanistic studies, opted in their infancy to imitate the value-neutral methods of the natural sciences. Even literature—the pillar and foundation of liberal studies—has surrendered to influential critics who have cast a masturbatory shadow over the study of language, disconnecting it from the dialectic of experience and claiming that it is primarily a vehicle for its own structures and internal sufficiency. The teaching of literature, as one writer has pointed out, has become a sub-species of cryptography.

The most striking feature of the recent history of the humanities in general is the extent to which they have successfully been cast in the objective mold of the "hard" sciences. It is not uncommon to hear them described as non-evaluative disciplines. As such they have become heavily research-oriented. Large sums of money are available for critical studies, commentaries, formal analyses and travel grants. Teachers who are teethed in these ways during their graduate training come very poorly equipped to teach in liberal arts colleges. Their best efforts are given over to converting the natives, that is to turning their students into faint carbon copies of themselves.

To ask in these circumstances whom the humanities humanize or the liberal arts liberate is to ask meaningless questions. Students don't come to college to become better persons. At least they don't remain there for that reason. And faculty aren't there to make them better. To ask what kind of person they are trying to turn out is to invite an answer in instrumental terms, one that more often than not comes from the placement office.

"The iconoclastic assumptions underlying our prevailing educational philosophies are future directed and hold the past in low esteem."

OUR REGNANT and somewhat sour pragmatism holds value questions to be matters of taste or private intuitions. They fall outside the pale of rational discussion and cannot be tied to any stable canons of judgment. In other words, they are not academically respectable. When we consider this dilemma closely it becomes clear that two logically incompatible principles are at work in our culture. With respect to our technological imperatives and corporate goals we are tough-minded and demanding. But we sit loose on value issues. On the one hand, a technological society demands discipline, hard knowledge and achievement. On the other hand, the requirements of a democratic ethos are slack and random, measured softly against what the situation will allow. The first casualty of this schizoid rationality is a convincing sense of moral obligation and a compelling idea of cultural excellence. As a result, we are hard put to define and preserve the public good. The moral type our educational institutions are designed to produce is a calculating egoist who can bend rules expertly to self-interest. We often honor such a type by calling him "adaptable," but our euphemisms do not conceal the fragmentation of personality that is inevitably the price that must be paid for lack of consistency and principle.

The enshrined distinction between knowledge and morality leaves us perplexed about how life should be directed. We have few reliable criteria for identifying what is genuinely worth pursuing and what not, few measures of argued realism to mark the way, few tested convictions concerning the good, the just, or the beautiful. Benjamin De Mott has scored the failure of liberal education to teach value discrimination in these words: "The assimilation of all learning adventures to the norms of the Scholastic Aptitude Test or the specialized contribution to knowledge under the model of nineteenth century German scholarship has provided this society with one of the thinnest and most juiceless versions of excellence known to the West." And he adds, with a turn of the knife: "I believe that education locked into the present matrix ranks amongst the most destructive forces in our midst."

For the liberal arts are the arts of emancipation, the free and the freeing arts. They aim to free the mind from ignorance, the will from bondage and society from tyranny. Freedom is the core value of the liberal arts tradition. Thus

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viewed, liberal education should be a training in freedom; it should tell us what our freedom is and how to use it. The hidden message beneath our present confusions appeals to the ancient truth that the desire for liberty is an elementary impulse of human nature.

I do not think here of an abstract or merely private freedom, but of concrete political freedom as well. It is a good rule of thumb to assume a rather direct correspondence between the quality of education and the quality of political life. The concept of excellence that prevails in the one will prevail in the other. Conversely, to abandon the task of educating liberally is to abandon the principal means at our disposal for forming and educating a responsible citizenry. But, graduates of our best schools have performed ignominiously in the public arena. Students, and here my own experience bears out what studies demonstrate, are largely apathetic toward the political process, woefully naive about the origin, history and mechanics of democratic values, and indifferent to the multiple threats to freedom in our time, which in the end are threats to their own freedom.

The value neutrality and schizoid rationality that pervade academia translate into student attitudes of political inertia, cynicism and ignorance. In this students can't be altogether blamed for they are responding to what they are taught. Whatever their motives when they embark upon their education, they soon learn that a heightened moral or political awareness is the mark of a social misfit. In the hardnosed professional world to which they aspire and where godfather morality is not merely the stuff movies are made of, such awareness would brand them as hopelessly unrealistic and sentimental. So they learn to play it cool (cynicism about the public interest is one of the first signs of this posture) and keep their eye on the main chance. The values that are pretty likely to be the outcome of our present academic priorities include, to mention only some of them, competition, driving ambition, individualism to the point of selfishness, middle-class hedonism, unconcern for the commonweal and so forth.

Perhaps what we need is a moral Sputnik. Some momentous event that would galvanize our moral resources the way the original Sputnik advanced our scientific and technological prowess. Vietnam could have been such a Sputnik. But it was not. Watergate could have been such a Sputnik. But it was not. Most of the actors in that reverse morality play are growing rich on royalties—or on fees from campus lectures.

I am convinced that a primary task of liberal education today is to lead students into a thorough investigation of freedom, into the requirements of a democratic ethics, into what might be called the rituals of a democratic faith. I don't just mean the formal requirements of a free society like popular elections, due process, free speech and the like. However important these are (and they are indisputably important), they lend themselves too readily to mystification. I have in mind, what might be called the existential underpinnings of democratic freedom—a certain substratum of attitudes and expectations, of habits and commitments. These would include attitudes of sympathy and cooperation, a sense of restraints and limits, a sensitivity to values and discipline, a desire for excellence, a respect for the common good and attention to duties and obligation as well as insistence on rights. The democratic imperative places high demands on individual intelligence and maturity but it always implies community and self-sacrifice. Students graduate by the thousands each year from our colleges without ever having seriously investigated these matters.

It is good to remind ourselves from time to time that democracy is an educated state rather than a natural one. As Jefferson put it: "If a nation expects to be ignorant and free it expects what never was and never will be." It is ironic that as our society becomes more knowledge-intensive, our societal goals become more fragmented. I take this as evidence that we do not educate in light of a reasoned cultural ideal. Democracy and education make a common demand upon us. Both are expressions of a cultural ideal, which in turn springs from moral sensitivity.

We may be invoking a lost and now impossible ideal. Perhaps the case for democracy is as weak as the case for liberal education. It may be, as many believe, that America now lacks a civilizing principle. Religion once provided such a principle. But it no longer does. Governments once provided such a principle. But they no longer do. Our last best hope is education liberally conceived. If we fail here our last line of defense collapses. In one of Plato's dialogues Socrates is talking to an actor and asks him how he achieves his spellbinding effect on audiences. The actor thinks it has something to do with inspiration. But when Socrates presses him on the nature of this gift the actor is unable to give a very clear account of it. Socrates tries to help with an image of a series of magnetized rings. At the head of the series is the Muse from whom flows a powerful current through the actor to the audience. In our present society I suggest that only liberal education can stand Muselike at the head of the chain. From there through students to society at large must flow a magnetic power that constitutes a civilizing principle. If not liberal education, then what? I confess I don't see any other candidate for the position.

III

Let me make, finally, a third suggestion for the reform of liberal education, this time in the area of skills formation. It is generally admitted that what colleges have done best is prepare students adequately along a variety of career tracks. They have, it is claimed, successfully trained students in the basic skills required for vocational performance. I grant that to the extent they have been successful, they have been successful in this domain. But it is becoming increasingly evident that it is a limited and largely delusory sort of success. On all sides the evidence mounts: students can't read, they can't write, they lack elementary mathematical skills. This is generally the case when they come to college and quite often the case when they leave. The situation is widely lamented. Committees have proliferated to study the problem. One uni-

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KNOWING GOOD & EVIL

CURIOSITY & AMBIGUITY

DAVID RIESMAN

From Genesis 3, v: For God doth know, that in the day ye eat thereof, then your eyes shall be opened; and ye shall be as gods, knowing good and evil.

I INTEND to reflect here about the knowledge of good and evil and its relation to the fundamental curiosity which led Eve to violate God's commandment, a curiosity which is supposed to be bad for cats, but as a result of which we possess the Bible, the Koran, the teachings of Buddha and of Confucius, of Aristotle and Plato. For curiosity to flourish, students and their teachers need to focus both on good and on evil, with the emphasis depending on the emphasis of the epoch in which they are living and working together.

When I was a student, I visited the Soviet Union. I was there with a number of leading fellow travelers, British and American. All around us was evidence of evil: ruined fields and starving peasants. Any foreign journalist could tell us of people who were taken out of their houses at night and shot or sent to labor camps. And yet people wanted to believe the good: because the language was the language of international socialism, and because the visitors were critical of their own countries, and condescending toward the Soviet Union, they failed really to appreciate the extent of evil. And because they had to look only on what was good, when we made an alliance of convenience with Stalin in the Second World War in order to defeat Nazism, we had to persuade ourselves that good old Uncle Joe was not fundamentally evil.

Today the climate is radically different. Perhaps people learn evil at that point in their lives as children when they discover that, though Wheaties may be the Breakfast of Champions, they do not themselves become champions: lies are being spread around and adults help them become perhaps prematurely "wise" to the fact that politicians or advertisers on television are not to be believed. Such discoveries breed a cynicism that their peers reinforce. Currently, I have many students who believe so firmly in evil that they are not curious. For instance, if I want to teach them something about the sociology of large high-technology corporations, they assume they already know: these are evil bureaucracies, greedy and corrupting—corrupting to those inside them and to those outside them over whom they have power. They do not want to know more. Rather like our cutting off and not recognizing Russia or China because they are evil, or self-righteously, in Woodrow Wilson's style, espousing human rights even where the basic right of survival in an age of nuclear weapons may be at stake. Thus, the differentiated effort to understand a mixture of good and evil in an institution or in a country cannot get started, for there is no curiosity: there is either, among the educated, willed ignorance or premature closure.

Let me give another example. Ever since I began teaching, I have sought to make students curious about American religions. I have encouraged them, most of them not churchgoers, to go to church on Sundays, to watch and to listen, to keep a diary, to see whether possibly they are moved in spite of themselves. I have wanted them to compare liturgical practices, to observe, for example, the immense diversity within Roman Catholicism according to social class and ethnic group, as well as the more commonly recognized diversity among the different Protestant sects, even within different congregations of the same church or sect in the same city. But many of these students, like many of my colleagues, are anti-religious bigots: that is, they already know that religion is the opiate of the masses; if their parents were religious, they have broken away; often today their parents, themselves college-educated, regard themselves as freethinkers, but they are not free, because they do not think about religion, and thus are easy prey to ideologies which are not called religion (a recurrent theme of Robert Bellah in his work on civil religion). These people behave as gods in their arrogance, but unlike gods, they know not good and evil, but only one or the other.

There have been times in our history when America has seemed a kind of Eden, as if Adam and Eve had not learned of good and evil. Even 25 years ago, horrified by the evils of Stalinism and of Nazism also, we Americans have felt very good about our country, and have seen other countries in an ethnocentric way, much as many of the early Americans did who wanted to build a City on a Hill, a new Eden. Since Vietnam, since all the revelations of the last decade, Americans of the sophisticated strata often harbor a new vanity: that our country is the worst, most imperialist and most racist, the bringer of evil to the rest of the pure world. I am not contending for some simple-minded moderation which strikes an even balance between emphasis on good and emphasis on evil. Everything depends on local context, of this time and this place. Everything depends on maintaining curiosity about both good and evil, on our willingness to shed the arrogance that we are as gods, even though in the end we too, like gods, must make judgments: we must distinguish the better from the worse, the greater good and the lesser evil, in those mixtures which everywhere make up the human condition.

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versity president has gone so far as to make mandatory a competency test for graduating seniors. A college education no longer guarantees basic literacy.

Nor, say other critics, does it guarantee a high income. It has been discovered that a college education is not needed to make large sums of money. But this has always been to some extent true. However, it seems to me the charge misses the point. The problem in an affluent society is not how to make money but how to spend it wisely. We have not yet made a very thorough analysis of the social problems caused by making considerable wealth available to the uneducated. There is a long-standing confusion in American society about the relationship between career education and liberal education. This is in part a reflection of a deeper confusion about the relationship of money to human values. The traditional response to this confusion has been an artificial division of labor. The liberal arts colleges have been assigned one kind of education while the larger, tax-supported schools have been made responsible for another.

But it is not a very satisfactory arrangement. Here again a historical perspective is helpful. Aristotle distinguished three kinds of knowledge: theoretical, practical and productive—depending on whether knowledge is pursued for its own sake, or as a means to conduct, or as a means to making something useful and beautiful. Liberal education must integrate all three—what I have called culture formation, value formation and skills formation.

FEW MODERN voices are so wholesome. Alfred North Whitehead was one exception. Schools, he said, should turn out students who know something and can do something. Let us distinguish the theoretical and practical, he urged, but not erect false barriers between them. In *The Aims of Education* Whitehead wrote: "There can be no adequate technical education which is not liberal and no liberal education which is not technical. Education must impart both technique and intellectual vision. The intellect does not work well in a vacuum." The principal reason why we have failed to teach skills is because we have failed to provide the liberal context in which skills can be integrated to larger purposes.

It follows from this integrated view that liberal colleges should have healthy components of career education and vocational schools ought not to spare the rod of liberal learning. The elitist, ivory tower view of liberal education is of fairly recent provenance. So far as I can determine it emerged sometime in the Renaissance period. The career mania that has overtaken educational policies in recent times is, of course, equally unbalanced. It is just as bootless to say that all education should be career education as it is to claim that it should inhabit a pure air above all practical considerations. If educators incline too much to the former view they produce students who are misfits in the world of work. If they err on the side of narrow vocational education they do an equal disservice to their students, all too often educating them for jobs that do not exist or preparing them badly for jobs that do exist. In either case they deprive them of the broader perspective that alone can make work an enriching human experience.

"... liberal education should aim to make value issues central to the intellectual life and to make it clear that a college, like other organizations, is a community of moral agents."

College years are a privileged time. For most there is no comparable time when they can attend so fully to acquiring knowledge, developing learning skills, and coming to a disciplined understanding of the human condition. It is a time for building what someone has called the intellectual stockpile that is necessary for productive professional work later on. At the same time practical skills ought not to be neglected. I have a specific suggestion in this respect. No male student should go forth from the ivied halls without basic skills in home maintenance—wiring, plumbing, carpentry, engine repair and the like. Home Economics departments have traditionally taught the basic skills of sewing and cooking. There is every reason in our consumer society for them to extend their franchise to the more technological aspects of household economy. Our slavish dependence on repairmen for elementary services bodes ill for the future of a free society. Perhaps the best solution in our present system is a required double major of all undergraduates—one of career preparation and other firmly anchored in an updated version of the trivium and quadrivium. Ideally, much of the senior year could be given to one or more capstone courses integrating the various disciplines.

The role of education is to unify the self in a condition of harmony with its social and cosmic setting. Socrates stands as a classic embodiment of this ideal, an incomparable example of a man living excellently. Socrates was not a professional academic (he held no degrees and did not attend Plato's Academy). He was by trade a stonecutter. But he was also a soldier, a teacher and a citizen par excellence. When he went about testing his fellow Athenians—in the market places, on the playing fields and on the couches of late night symposia—relentlessly questioning and cross-examining them, he was not merely staging an intellectual acrobatic act for the amusement of youth. Rather he was measuring the many opinions sampled in dialogue against what he profoundly felt. He was putting into practice a technique by means of which he authenticated truth on the smithy of an integrated self. Thus, when he took a stand as he did most eminently against his accusers, it was one secured not only by

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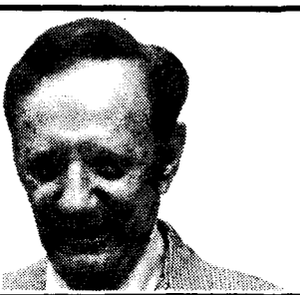
the soundest of arguments but also one that was consonant with his undivided personality. It was not only truth but his truth. This is the full sense of the Socratic dictum that virtue is knowledge; to know truly who one is and the reason why one acts is the good life.

Education may be likened to stage directions. It tells us how to play the game of life with aesthetic élan and ethical firmness. Thus one can defend the argument that education is our greatest moral resource. Like other resources it can be exhausted, squandered and polluted. The kinds of ideas that fill our minds, E. F. Schumacher argues, determine the quality of our experience. If our ideas are "mainly small, weak, superficial, and incoherent, life will appear insipid, uninteresting, petty and chaotic." Schumacher plays for keeps and swims like a sturgeon against the modern current in recalling education to its ancient role of promoting metaphysical awareness. "Whether the subjects taught are subjects of science or the humanities, if the teaching does not lead to a clarification of metaphysics, that is to say, of our fundamental convictions, it cannot educate man and, consequently, cannot be of real value to society."

This is education's dimension of ultimacy. Beyond this it cannot go and yet it must not aspire to less. Small wonder that it is the most difficult of the human arts, more likely than all the others to fail, to lower its sights, to sell out. It takes extraordinary courage and vision to face wave after wave of unformed human substance, thrown at us like armed divisions in an endless war, day after day, year after year, generation after generation. Each effort in education is, as Eliot said of art, "a raid on the inarticulate with shabby equipment always deteriorating."

But there is really nothing surprising about the difficulty. Education is ultimately the study and formation of the human self and, as Aristotle said, to attain any assured knowledge about the self is one of the most difficult things in the world. The difficulty is indicative of its importance and it was for this reason that Aristotle placed it in the front rank of human activity.

IN MEMORIAM: ROBERT C. POLLOCK, 1901-1978



A great educator

DAVID S. TOOLAN

A GREAT educator? Yes—and seer, oracle, prophet, iconoclast, enchanter, mystagogue, holy fool. A man who relished a contradiction as much as Hegel must have, and for a similar reason: it got things moving! He loved the city, New York, but there was something very Californian about him, wacky and Dionysian. He was a convert, we'd heard, from Judaism. I later found he'd become a Catholic while a graduate at Harvard, at a time when that must have appeared intellectual suicide. But he was a man to defy appearances, a born maverick. If something was incongruous, there must be something good about it! No mind so free, we students judged, could possibly have arisen out of cradle American Catholicism. So we thanked the rabbis. Yet when I remember him, I think of the most extraordinary catholicity of spirit I've ever met.

Attending one of his lectures was like an encounter on the road to Emmaus, a pentecostal event. He had the gift of tongues; I mean his classes always drew a crazy-quilt group, including young and old non-specialists and visiting relatives. Everyone seemed to hear him in their own tongue; and each "turned on." I'm told the throng at his funeral was comparably diverse, a fitting testimony to this most democratic of men. "Did not our hearts burn within us as he talked . . .?" Indeed yes. Though he taught under the auspices of a philosophy department, I've always felt at base he was an American Catholic Hegel, that is, a theologian of history. He put the history of dogma into the perspective of an evolution of human consciousness and culture. It was Catholics, he felt sure, who would finally rescue Hegel. But he was far more than an academic. His classes were theophanies.

But we laughed a lot too. He was a Catholic edition of the Sufi comic seer, Nasrudin, a mystical Charlie Chaplin. He would talk, deliberately, in circles, synchronically. Afterwards, you knew what Hegel meant when he called cosmic history a bacchanalian revel in which not a soul is sober. To a linear mind, it was sometimes like entering one of E.M. Forster's magical Hindu caves—dizzying. You always had the impression he'd started the lecture on the subway coming uptown, and was smack in the middle of it when he entered the classroom and, without usually alluding to them thereafter, dropped that ill-assorted pile of notes all over the desk. You wouldn't go to him for a strict textual course; you'd go to him if you had a child's metaphysical questions, and hungered for really big ideas. He would take you on a tour of outer and inner time-space, ranging about the whole history

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of western consciousness, as if he were guide for a 20th century version of Chaucer's *Canterbury Tales*. There were no fixed shrines here; it was eminently the world of historical consciousness, the world of Einstein and Whitehead and Teilhard, of Marx and Freud, and cybernetics and the sociology of knowledge, of Auschwitz, of jazz and Jackson Pollock (no relation) and revolutions. We humans had made this world; we could unmake it, remake it. For many of us, it was this eccentric Fordham professor who took us into this world of relativity and process, future shock and revolution, and made us feel, at once, both awed and at home there.

HE WAS born, Jewish, in Glasgow, Scotland. Emigrating early to Chicago, he did his undergraduate work at Harvard, studying with Alfred North Whitehead and William McDougall, and also took an M.A. in psychology and philosophy there. He then moved to Toronto's Medieval Institute, and worked under Gilson, for his Ph.D. While in Cambridge, for a time he had been tutor to Emerson's great-grandchildren. Somewhere in this process he would develop his own distinctive interpretation of medieval and classic American philosophy. There was a line of descent, he argued, from the Christian naturalism of Scotus Erigena and Bernard of Clairvaux's individualism down to Jonathan Edwards and Emerson, up through C.S. Peirce, James and Dewey. This puts poetry at the heart of things, and demands that scientists be mystics. Pollock's thesis here is still largely unexplored and vastly significant—especially if he was right in asserting that Perry Miller never understood the Puritan mind!

He would teach briefly at Notre Dame, for thirty years at Fordham's graduate philosophy department, and at various times held appointments at Manhattanville, Pace University, The New School and Seton Hall. He loved to turn your world upside down, and then give you new eyes with which to see a wider, richer one. I may recall him most fondly, though, for understanding what few intellectuals seem to: how gentle and respectful one must be toward new ideas when they come into this world ill-fitting, inarticulate, passionate and one-sided. Pollock had a mother's wisdom with fragile new things—or was it the child's heart?

Many of his peers found him suspect, alarming. For one thing, he was a defender of Marx and Marxist social analysis (of the Frankfurt School type) when this was scarcely popu-

LOAVES AND FISHES

REMEMBERING CLAIRE HAHN

THIS IS a good time to say a personal word about Claire Hahn who died of cancer last summer. *Commonweal* readers know her as a regular poetry reviewer and contributor to the *Commonweal Papers #5: Faith: The Struggle to Believe* (November 15, 1974) where she wrote, in her article on culture and belief, that, "Perhaps if we look steadily enough at this emerging face of contemporary man we can learn to love and compassionate his image and hear the Word spoken in time." Hundreds of Fordham students knew and loved her as the infectiously dynamic, enthusiastic and witty teacher who began to teach them about Chaucer and Yeats and ended teaching them—by the manner in which she faced death—the beauty and richness of a life lived fully no matter what the pain.

Our friendship began when I first arrived at Fordham eight years ago, when Claire was going through a particularly critical period in her life—one which in some ways mirrored the broader struggles of the church: her illness had been diagnosed; she was leaving the Dominican order to marry (with an unbounded joy she was so anxious to share) Jack Becker who was leaving the Jesuits; she was worried about coming up for tenure; with all this she was still generous enough to help me as a faculty volunteer with the Open Curriculum, an experimental independent study community, and also to teach at night for three years at Malcolm-King College in Harlem.

A few years later, in October 1975, when I was feeling worn down by a number of things, including an impending, prolonged, public tenure battle of my own, I visited Claire in New York Hospital. She had some tubes in her, and her bed, one of six in the room, was nearest the door. Her cancer was inoperable, but she was hoping for a remission—determined to return to the classroom by January. I will always remember how radiantly beautiful she appeared, as she told me how in suffering she had renewed her own faith and had liberated herself from the pain of her earlier life experiences. I kissed her as I left, thinking I might never see her again, but knowing she had liberated me from some less important suffering of my own.

She lived to teach for three more years, to go on writing, to encourage other writers, to win promotion in the English Department (which meant a lot to her), to show her students—even when she could hardly pull herself along the hall and had to teach sitting down, and told her class (wrongly) "I'm not as much fun as I used to be"—that the greatest sin was to waste life. She was, more than ever, as one student said, "like a basket of loaves and fishes that never emptied once you started giving it away." In our last conversation—concerning one of my former students who was facing the same fate as Claire and wanted to know how to spend her remaining time—she told me she had never been happier in her life.

RAYMOND A. SCHROTH

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lar. "The sense of God's transcendence," he would say, "is the transformation of the earth." He was a great friend of the Italian priest-sociologist and political leader, Don Luigi Sturzo, and they collaborated in writing *Del Metodo Sociologico*. Like Sturzo, Pollock felt that for four hundred years Catholic intellectuals had been largely unconscious, abstracted from and athwart the central movement of history—and that meant profoundly out of tune with what God was doing in time. "Holy Mother Church," he'd once told a solemn assembly of reverend Mothers and Fathers, "is a fat ass!" This from a man who edited a book titled *The Mind of Pius XII*, a mind I think he deeply disliked.

Yet Pollock was nothing if not a transmitter and animator of a great Catholic heritage. Like the "open" middle ages he loved, he wanted to embrace the protean abundance of creation in all its diversity. His God was not the post-Tridentine legal supervisor, but the self-expressive God of Bonaventure and the Oxford Franciscans (and of Edwards and Emerson, he claimed) who creates, out of sheer ecstatic love and joy—a poet's universe, fit for dreaming and making. Pollock's Catholicism was not so much *Roman* as it was of a kind that predated the great 16th century schism in the western soul, and equally all those Cartesian divisions of mind. Like Teresa of Avila, he could see no conflict between devotion to God and thoroughly enjoying a hearty meal of fine partridge. More than this, he assured us, "mysticism and technology belong together." The moon shot, he knew, was a profound psychic event, no less inner than outer. Like his intellectual heroes, Pollock inhabited one all-inclusive environment which embraced both spirit and the world of nature. This made for a mind like Gregory Bateson's or Buckminster Fuller's, one that draws connections where you were sure there were chasms. "The experience of God has to be tied in with the experience of the jet engine," he would say. He had trouble worshipping in a neo-Gothic church; said it destroyed transcendence and he preferred many a warehouse! I think he could have prayed in the new East Building of the National Gallery—his kind of space.

For ages, he thought, humans have been battling their way *into* time. This is the mark of the Christian soul, a soul that wants to be in time, to naturalize, terrestrialize itself. Americans were a quantum jump in this process, and their experience required a new statement of the religious life, one adequate to a new form of contemplation and spirituality. He was afraid we might turn our back on our dynamism, forgetting that the saints pray *to us* to create the mystical body on earth.

He was buried in the earthy brown habit of Francis, the saint who hymned the sun—and the earth. And on his funeral memorial card was this statement of his on the Eucharist: "I don't want the most common meaning. What I want is the most exalted meaning."

THE ADVERSARIAL MODEL VS. SELF-GOVERNMENT

Collective vision & collective bargaining

DENNIS O'BRIEN

ONE OF the longest running tales in academia is that of Dwight D. Eisenhower's initial day as President of Columbia University. The General was shown about the premises and toward the late afternoon attended a meeting of the faculty. Being introduced, the new leader arose and said how pleased he was to be there and what a pleasure it was to meet "the employees of Columbia University." Stunned silence. Finally, a senior member of the faculty arose and said, "With all due respect, sir, we are not *employees* of Columbia University, we *are* Columbia University." A nice rhetorical turn to play on a General of the Armies.

Whether that anecdote is true or not I have been unable to verify, but the claim of the legendary senior faculty member appears to have received unusual confirmation in a recent judgment of the United States Second Circuit. In a unanimous ruling by the three-judge panel, Yeshiva University won an appeal against the National Labor Relations Board to the effect that its faculty were *not* employees under the meaning of the National Labor Relations Act.

The Yeshiva ruling is carefully restricted. In the first place, Yeshiva is a private university and as such labor relations are determined under *federal* legislation, namely, the National Labor Relations Act. State universities are governed by state laws which may or may not permit in some fashion the unionization of state employees. A second qualification of the Yeshiva ruling is suggested by an *amicus* brief filed by

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several private colleges which introduced the notion of a "mature" institution to the discussion. A mature university is an institution in which there is firm historical precedent for faculty involvement in major decisions.

The question before the court was whether in a mature, private university the role of the faculty in decision-making constituted a "managerial" function. Judge William H. Mulligan (a former Dean of the Fordham Law School) concluded that the faculty's role was just that. Since this conclusion is a startling reversal of current legal doctrine and faculty self-perception, it is worth examining the court's argument. Two general points: first, an individual may well be employed by a corporation but not be an *employee* in the strict meaning of the National Labor Relations Act. Lee Iacocca was at one time and is no longer employed by the Ford Motor Company, but for all that he was not an employee entitled to unionize with his fellow vice-presidents in order to bargain collectively with management. The second general point is that managerial authority is not under the Act necessarily decisive authority. Section 2 (11) splits an infinitive in stating that a "supervisor" must have authority "to effectively recommend . . . action."

In arguing its case, the NLRB stated four grounds for why faculty at Yeshiva were not managerial (1) faculty are professional employees, not managers, (2) faculty act collectively not individually, (3) faculty act on their own behalf not in the interest of the employer, (4) faculty are subject to the authority of the Board of Trustees. The court thought none of these grounds was sufficient.

(1) In a case involving General Dynamics, the NLRB determined that even though an accountant in his capacity as a professional could "cause a change of company direction or policy which is based on his professional advice alone" this did not qualify him to the status of "manager." A professional *employee* offers specialized, limited technical expertise which may indeed be the basis for a management decision, but the Second Circuit argued that Yeshiva faculty are "in fact substantially and pervasively operating the enterprise." It is not a case of seeking advice from the geology department about water tables before starting a construction project; it is the professor of geology sitting on a faculty committee which is recommending an extension to the library.

(2) NLRB argued that because faculty act collectively, e.g., through departments, committees or senates, they are not managerial. The Court noted that there was really no legislative history which would clarify the matter of collective or individual decision-making and that the Board had been quite clear (NLRB v. Bell Aerospace) that a managerial group excluded from the bargaining unit exercised their functions as a "team" without for all that ceasing to be managers.

(3) Perhaps the most fundamental point is whether the faculty act on their own behalf or on the behalf of the employer. The Court argued that there seemed to be scarcely any actual instance that could be pointed to where the Yeshiva administration did not accept faculty recommendations. The conclusion drawn was that the interests of the administration (putative management) and the faculty were at least coextensive if not identical. The Court quoted an AAUP policy statement to the effect that it regards proper university governance to lie in shared authority among faculty, administration and Board of Trustees. "These three components have joint authority and responsibility for governing the institution . . . the essential and overriding idea is that the enterprise is joint. . . ." One is hard pressed to know how to apply that AAUP language when an AAUP bargaining unit is in negotiation with "management." Is the faculty bargaining with itself as joint manager?

(4) The final point that faculty are subject to the authority of the Board is the weakest of the arguments. If logically pursued *only* the Board would be management, since administrators are equally subject to Board review and almost every corporate manager in the country has a Board of Directors with power to overturn decisions. On the basis of the Court's arguments and my own experience in private education, I am inclined to agree with the summary conclusion:

> It is clear that the Congress when it amended the (National Labor Relations) Act in 1947, had no contemplation that it would be applied to professional faculties in private institutions of higher learning. Their governance is unique and has no counterpart in the commercial business models the Act was designed to regulate.

IN MY JUDGMENT, the Court's argument that faculty are *not* employees is much stronger than the NLRB's that they are—and yet no one can be quite satisfied with the outcome. The faculty unions were, of course, outraged. In *The Chronicle of Higher Education* Paul Connolly, an associate professor of English at Yeshiva, excoriated the Court's decision on the ground that if the faculty at Yeshiva were so free to manage the institution, why had they been forced of late to accept heavier teaching, reduced sabbaticals, postponed tenure decisions, and a host of other administration-imposed nastiness. He quotes Mr. Bumble—"the law is a ass"—but goes on to *accept* the basic argument of the Court in a striking paradox. "We, the Yeshiva faculty, have had to insist that we are non-managerial and non-supervisory in order to organize ourselves into a body that can reassert its managerial and supervisory power. And it is the administration, paradoxically, that has insisted that the faculty *is* managerial and supervisory, in order to restrict faculty power. . . ." In short, if the Yeshiva faculty were to be declared employees, they would then be able to exert the very managerial functions which would preclude them from being employees.

The NLRB has formally appealed the Yeshiva case to the Supreme Court, and one does not envy the Court's task. The issue is rather like trying to decide whether a hippopotamus is a bird or a fish. Riparian appearances aside, I suppose it is more like a bird than a fish—but in truth it is neither.

There is a more fundamental problem underlying this court case than an exercise in legal semantics. The real problem with colleges is not who are the employees, but who are the

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managers. Labor law is written with the assumption that there is some sort of distinction, however delicate, between worker and manager, but the facts of much of higher education would argue that management is harder to find than employees. In an absolutely sober argument, Michael Cohen and James March have argued that colleges cannot be regarded as being managed at all. They are "organized anarchies."

The three marks of an anarchy are: the institution lacks any clear definition of ends; has an undeveloped technology; and there is "fluid participation" in the decision-making structure. It needs no deep draught of cynicism to confirm that characterization of almost all colleges and universities. The ends for higher education are among the loftiest conjured by the mind of man. The problem with these goal statements is that they are so transcendent that no one knows quite what they mean or how they are to be attained. In Jacobsen vs. Columbia, a student sued Columbia University on the ground that the institution had not provided him with wisdom. University officials protested that Columbia had never promised so grand a result. The student countered by entering in evidence the inscription from Columbia's buildings referring to *sapientia* and *sophia*. If Columbia wasn't offering *sophia*, why was it advertising it on every architrave?

Many enterprises are governed by the facts of their technology. No one asks about the ultimate goals of a plastics plant since it takes so many fixed decisions to keep the technology in operation. Colleges are very low technology affairs (excepting science research) so that the level of tending is often not far above cleaning the chalk boards. Finally, in the modern era of participatory decision-making, the important university committees will have new students every six months, new faculty every year, and even presidents only last an average of four and a half years. Everyone spends so much time finding out what the problems are that there is no time for solving any of them—and besides *those* problems are already history. In sum: no one in particular seems to be deciding what imprecise tools should be used to approach unknown goals. Surely someone should organize against that state of affairs.

One of the most common faculty comments about the Yeshiva case is that they don't "feel" that they make decisions about the university. The conclusion is that they must be "tyrannized" by somebody, e.g., the administration. The faculty are probably correct in feeling "powerless," but the proper understanding of that sense of frustration is not assisted by reconstructing the university on the labor/management model offered by NLRB. I would suggest that both presidents and professors are equally and mutually tyrannized by the anarchic character of the university. The common plaint of college presidents when they gather is that they can't really do anything on their campuses. In their own eyes they seem as powerless as the most oppressed untenured instructor.

The anarchic state of the universities is of relatively recent date, but what has brought matters to the point of collective bargaining is the financial crunch. Anarchy is a luxury of affluence. As long as presidents had ample funds to allocate they could permit institutions to ride off in all directions at the same time. Shrinking finances force choices—one falls back on the bottom line. Semi-arbitrary judgments are made in order to balance the budgets, but these decisions win only minimal acceptance since the institution participates in no common goal. Collective bargaining becomes the alternative to collective vision. What is needed is not faculty unionization as much as stable participation by duly authorized faculty in the basic decision structures of the university. Faculty will prove no more canny than administrators, I am sure, in solving the basic financial straits of higher education, but at least the problem of allocating resources will be addressed by an authoritative voice. At the same time, a balance is needed in the whole apparatus (the administration and/or the Board) to guard against original sin. Even professors might vote to sell the library to raise salaries—chopping down the Tree of Knowledge to get the fruit.

Colleges and universities are not properly labor/management institutions. They present a kind of collective governance for which we have no ready models. In some more enlightened age one could hope that more of society's institutions would move toward collective governance in which "workers" will participate in "management." It will not bring that future nearer if we insist that one of the few extant collectively governed institutions adopt the adversarial model of competing social classes.

Screen

CLONING AROUND

INVASION OF SUPERMAN

IN THE original *Invasion of the Body Snatchers*, directed by Don Siegel in 1956, there is a clear distinction between Them and Us. In Phillip Kaufman's new version, however, the distinction seems less clear. There is no point in the original at which the alien vegetation, the pods, are mistaken for a plant species native to earth; but in the new movie, the invasion begins with the appearance of a beautiful parasitic flower which people innocently pick to wear in their hair or put in bud vases. In fact, before the invasion even reaches this stage, it has already begun in the form of a peculiarly jellified water so indistinguishable from ordinary rain that no one (except us) notices it at all. The import of this new insidiousness which the invasion has in Kaufman's film would seem to be that it is not really an invasion, but a part of the natural evolution of things.

This difference is striking because the new film otherwise follows the plot of the old closely. The hero, Matthew (Donald Sutherland), is a public health officer in San Fran-

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cisco instead of a doctor in a small town. But he again has a girlfriend, Elizabeth (Brooke Adams), who is his ally against the invasion, and who falls fatally asleep in the end like the original heroine. (The title is really a misnomer since what "they" snatch, always while you sleep, is your mind rather than your body. "They" supply the body, a duplicate of your own which, in both movies, pops out of the pod as if it were one of those self-inflating rubber dinghies filling with air.) Even the episodes are largely the same in the new film, as when Matthew and Elizabeth are besieged in their car by some lunatic yelling, "They're here! They're here!" This bit part is played by Kevin McCarthy, who did the same thing near the end of the original, in which he starred. By having McCarthy appear in this film, as well as casting Don Siegel himself in another bit part, Kaufman clearly acknowledges his debt to Siegel's film.

But Kaufman has picked up a few tricks from the sci fi made since the '50s, too. He includes, for instance, an episode not from Siegel's film where Matthew discovers a sort of factory-greenhouse in which the pods are being grown. The scene is very reminiscent of one in a recent film called *Soylent Green* where Charlton Heston discovers at a similar factory that the processed food everyone eats is made from human corpses. This is what the sci fi we see today more typically proposes: that we are doomed to be the victims not of some invader from outer space, but of ourselves. Most of the changes in the new film seem to have been made to bring *Invasion* into line with this current wisdom. This is why the invasion blends so imperceptibly with conditions on earth. The implication is that "they" are just part of the same eco-system.

The best part of *Invasion* is in early scenes where Kaufman establishes this. The ultra-violet light Matthew uses to inspect a fancy restaurant's kitchen, looking for virulent foreign cultures, eerily anticipates a similar light given off by one of the *fleurs du mal* Elizabeth picks. A scene of everyday life that also occurs early in the film is made to appear peculiar because we can only see the character's feet from where Kaufman has placed his camera. Later we will see whole gangs of trooping feet that suggest the uniformity and anonymity of the pod people. Even a break in the windshield of Matthew's car, which forces us to look at the world through a network of cracks, reminds us of the root systems we saw the pods putting out in their flower stage.

In his very first Hollywood assignment, a Western called *The Great Northfield Minnesota Raid*, Kaufman showed the same inventiveness and ability to create atmospheres that he shows in the early sequences here. But I think his new film also owes a lot to *The Exorcist*. It, too, succeeded by making the seams between natural and supernatural invisible, and by ultimately making familiar pain, like a hypodermic injection, more awful than the otherness of "them." In interviews Kaufman prefers to talk about the influence which the *films noirs* of the '40s have had on him. It's so much more profound to be influenced by old box-office failures than recent successes. Either way, though, Kaufman shows a promising ability to make his influence his own.

RICHARD DONNER, who directed *Superman*, couldn't even make the movie his own. It's hard to do so when you work for super-producer Alexander Salkind, since he tends to take the footage you shoot and divide it up into several movies. He did this with the *Musketeer* films a few years ago, and I don't doubt that he has the sequel to *Superman* in the can already, too, compiled from the out-takes of *Superman*, itself. The investment being so large, producers of spectaculars don't want to risk everything on the imagination of one man. They therefore like to hire directors with as little imagination as possible, a qualification Donner proved he had as director of *The Omen*. Also adding to the divisiveness on *Superman* was the endless division of labor among the writers, each of whom left after a wrangle. There were so many, they had to split infinitives between them. Salkind began with Mario Puzo, and then fired successively more talented people as he went along. While three producers and two designers get their pictures in the overpriced program sold at *Superman*, none of the writers does, which gives you some idea of what priority plot, character and the other details supplied by writers got in the making of this film.

The result is that, as a story, *Superman* goes nowhere. Our hero (Christopher Reeve) is really just a super cop-on-the-beat, foiling a robbery one minute, rescuing somebody from an accident the next, etc. This is a great premise for a comic book, where the whole idea is for the characters not to change from one issue to another and for the adventures to occur in unconnected installments. But a movie should be able to transcend such a premise, or at least leap over it at a single bound, and *Superman* doesn't do this. While the infant Superman is being evacuated from the planet Krypton and growing up on earth, the film is engaging. And his first couple of outings in his get-up are campy and fun too. But by the time he gets around to the finale where he rescues the whole state of California, we couldn't care less. The same thing happens to Superman that happens to a lot of big jocks. He peaks too soon.

Since the director, writers and actors make little contribution to *Superman*, all that's left is the production. But then, that's often all a spectacular like this is in the first place. However aimless *Superman* may be in other ways, as a production it is worth watching because of the talents of its designer, John Barry. Barry's career has built up to *Superman* the way a piece of theme music builds up to a cymbal clash. (His first assignment, as an apprentice, was on *Cleopatra*. Even then he knew.) The trickiness of bringing *Superman* to the screen was that its material is at the same time both futuristic and old-fashioned. Barry is the one collaborator on the film who managed to figure out how to deal with this.

On the one hand, *Superman* is science fiction, an aspect of his legend to which the movie pays special attention by telling the story of his escape from the planet Krypton. On the other hand, though, while Superman is presumably a projec-

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tion into the near future, he is someone from the past as well. This aspect of the legend the film also takes into account by beginning with the pages of the original DC comic where Superman appeared in 1938. Superman is, after all, our Odysseus, a hero from our Golden Age whose remembrance is supposed to buck us up today. He has to live in a world where an individual can make a difference—a world where a super cop-on-the-beat could actually cope with the crime problem. His appeal to kids may be fantasy, but his appeal to adults, who must also see the film if it is to return its investment, is nostalgia.

It is the job of imagining the world in which the hero lives that often falls to the production designer, especially on a spectacular. It may well have been Barry who thought of setting the scene and tone for *Superman* with shots of the original comic book. Certainly in other places, where the responsibility was clearly his, the movie shows him to have been astute about *Superman*'s Janus character as both future and past. One of these places is in his set for the planet Krypton, which he imagines to be a colossal snowball hurtling through space. As such, Krypton looks as if it were a civilization more advanced than ours, yet also more primeval—an ultra-technology in the midst of an Ice Age. This makes us mindful that we benefit Superman as much as he benefits us. He is, like Odysseus, someone made wiser by having to disguise himself as an ordinary man. The way Barry envisions Krypton, we can only suppose that coming to earth is a heart-warming experience for Superman. This allows us to feel better about being on the planet earth ourselves.

Should Superman ever decide to send for his relatives, they can all get jobs here in detergent commercials. Every immigrant group needs a trade—coffee shops or tailoring or whatever—and that can be theirs. Never have I seen a place as dazzling as Krypton, particularly the clothes. If Barry's sets for Krypton are equally dazzling, however, his set for the underground hideout of Superman's nemesis, Lex Luthor (Gene Hackman), is even better. It is Barry's *pièce de resistance* in this movie.

Barry has conceived of the hideout, a sort of elaborate bunker like Hitler's, as being built in ruins of the lower level of Grand Central Station. We know it's Grand Central because the marble corridors and lettering painted over the archways are all familiar, and we know it's a ruin because here and there a balustrade is just a row of uneven marble stumps. This outmoded landmark of an outmoded city is the perfect place for Luthor, himself an outmoded type of villain, to live. But at the same time, making the station an abandoned ruin where it would be possible for Luthor to live suggests that he does so sometime in the future—probably, as in the rest of *Superman*, the very *near* future. If everybody involved had worked as whimsically as Barry, *Superman* could have been another *Star Wars*.

COLIN L. WESTERBECK, JR.

Books: TRIAL BY SECRET DOCUMENT

AMERICA IN VIETNAM

Guenther Lewy

Oxford University Press, $19.95 [540 pp.]

Robert F. Drinan

THIS is the first serious book to raise the question that haunts both the doves and the hawks on Vietnam: how could America have so misconceived the realities involved in the one war which America has lost? Guenther Lewy, a distinguished professor at the University of Massachusetts and author of *The Catholic Church and Nazi Germany*, makes clear his position: "The American attempt to prevent a Communist domination [of Vietnam] . . . was not without moral justification."

Despite this firm stand Lewy concedes that "American policy-makers not only exaggerated the geopolitical importance of Vietnam . . . but more importantly, their decisions were overtaken by important changes in the character of world Communism, which gradually undermined the premises on which U.S. policy in Southeast Asia was based."

So where does a meticulous scholar like Lewy finally come out? He puts it this way: "It is the reasoned conclusion of this study . . . that the sense of guilt created by the Vietnam War in the minds of many Americans is not warranted and that the charges of *officially condoned* [the emphasis is Lewy's] illegal and grossly immoral conduct are without substance."

To many readers this thesis will sound preposterous. In my judgment Lewy has not demonstrated the accuracy of his contention and has in fact turned up abundant new material to prove the opposite.

But the background objective which Professor Lewy sets forth deserves our attention first. He notes that for countless Americans "the Vietnam War represents not only a political mistake and national defeat, but also a major moral failure." This view of the war, Lewy feels, "has contributed significantly to the impairment of national pride and self-confidence that has beset this country since the fall of Vietnam."

Lewy is very troubled about the "national trauma" left by Vietnam and what he feels is a "major credibility gap . . . and a general distrust of facts and figures issued by the American Government." He has some hope that a "searching and disinterested study" can change this state of things. As a result he has spent many months researching hitherto classified records of the military in Vietnam. Lewy claims that "the pic-

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ture that emerges is novel and occasionally startling. . . ."

Students of this book—and there will be many—will applaud its scholarship, but will probably find its "startling" feature to be that this first re-examination of the writings of David Halberstam, Frances Fitzgerald and others doesn't really make its point. The problem is that Lewy, while anguishing over the shame so many Americans now feel over their country's involvement in Vietnam, does not really make it clear what his own starting point really is as he analyzes and dissects the countless secret documents the government has put at his disposal.

At times Lewy seems to assume that there were two distinct Vietnams and that the people of South Vietnam deep down really wanted to opt for a separate existence. In fact this seems to be the real unspoken premise in Lewy's study from which most of his conclusions are derived. In his heart, Lewy probably agrees with the 1956 statement of Senator John F. Kennedy which he quotes. "Vietnam," declared JFK, "represents the cornerstone of the Free World in Southeast Asia, the keystone to the arch, the finger in the dike." Lewy cannot understand why this feeling, widely accepted until the late 1960s, should now be so widely repudiated. Lewy seems to blame the intellectuals of the anti-war movement whose veracity, consistency and even integrity he challenges in a surprisingly unrestrained way.

Lewy's real subject seems to be his attempt to discover what *is* America's foreign policy. He is baffled that the policy of containing Communism appears to have evaporated with America's defeat in Vietnam. He is stung with this defeat and angry at those who, in his judgment, have repudiated the validity of containment, but have not offered any alternative.

Lewy's frustration and anger at this state of things reflects the mood of millions—some of whom are so bewildered that they might well start a witch hunt to discover "Who lost Vietnam?" Because Lewy's book will be used and misused by these millions, it is both significant—and dangerous.

This book is dangerous because it suggests that America, in its conduct of the war, complied with the necessary legal norms and that any moral questions raised by many Americans concerning the conduct of war are not, in the light of his research, really relevant. Lewy is much too sophisticated to put it that bluntly, but ultimately his position comes to that. He is, furthermore, not always entirely accurate on what the internationally accepted rules of war really say. For example, he claims that Martin Luther King, Jr., Abraham Heschel and Harvey Cox among others were mistaken in their joint 1967 statement that the forcible relocation of large groups of people in Vietnam violated Article 49 of the Civilians Convention of 1949. Lewy quibbles that this provision does not apply to conflicts not of an international character. Article 3 of the Geneva Convention applies, Lewy argues, but this only condemns "violence to life and person" and not specifically population relocation.

This is the type of casuistry that dominates Lewy's book. He concedes that the rules of war are vague and amorphous and that they were never intended to apply to a war of counter-insurgency like Vietnam. At the same time he almost manipulates his evidence to prove that the United States in Vietnam generally observed the rules of war. His best case is for the bombing of North Vietnam which, Lewy claims, "conformed to international law." He asserts that in that "application of American air power . . . targets, munitions, and strike tactics were selected to minimize the risk of collateral damage to the civilian population."

But, in his 200 pages of arguments seeking to prove that the Pentagon conformed to the laws of war, this is about the only instance where Lewy approaches credibility. In the rest of the book, Lewy recalls and, incredible as it will seem to many, seeks to justify that parade of horrors and atrocities—some of which left even hawks in America aghast. Lewy reviews free-fire zones, the bombardment and destruction of populated areas, the use of napalm and tear gas, defoliation and crop destruction, cluster bombs and the Phoenix program. He compares them to the guerrilla tactics of the Viet Cong and concludes, against this background, that the "American counterinsurgency effort . . . while often carried out in a self-defeating manner, generally did not violate international law, did not seek to destroy the civilian population as a matter of deliberate policy and did not cause civilian casualties in proportions uniquely different from other wars of this century."

Professor Richard A. Falk of Princeton University and many—perhaps most—other jurists who have written on this issue would be in fundamental disagreement with Lewy. That is, if Lewy means to abide by his conclusions. He has an exasperating way of conceding the absurdity of his super-legalistic conclusions—having justified napalm, for example, he confesses that the "rather free use of napalm and attacks upon fortified hamlets with artillery and air strikes can be criticized on humanitarian grounds and, moreover, were often counterproductive."

Why has Lewy devoted at least a thousand days of his life to come to such tortured conclusions? How can he believe conclusions that do not flow from his own evidence? Why has he felt compelled to write that "American search and destroy operations were not tantamount to a scorched-earth policy" and then go on to point out that such operations were inhumane and ineffective? The only explanation is that he, like millions of Americans, finds it impossible to believe that his government miscalculated in Vietnam as disastrously as the majority view now holds.

What Lewy should find impossible to accept is the fact that on April 8, 1971 the Defense and Justice Departments announced that they would not prosecute violations of the laws of war in Vietnam such as the My Lai massacre. It may be difficult to accept the idea that the United States, in this war, engaged in a long series of immoral acts; but, because of the evidence, the idea is credible. Yet it is—or should be—incredible to accept the notion that the United

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States will not prosecute American war criminals in the same way that it punished General Yamashita after the war in Japan.

More than any other American scholar, Lewy has had access to the official documents which directed the war in Vietnam. Presumably these papers will be made available to other scholars who will draw completely different conclusions from them. One is tempted, after reading this prodigious book, to urge the Pentagon to make available *all* its documents on Vietnam now. Meanwhile, if this is not done, the military—and specifically persons like General Westmoreland—will be open to the suspicion that they are guilty of serious misconduct in not insisting on adherence to the rules of war. Indeed even from the generally benign interpretation placed by Lewy on the secret documents which he inspected, one is continually tempted to think that there are charges that should be brought—or at least investigations that should be made concerning those who led us into the war in Vietnam.

If America wants to enter a period of agonizing reappraisal of the Vietnam War there are two approaches. One is followed generally by Lewy of interpreting the Pentagon's conduct to be rational and responsible even though unsuccessful. Another approach, not yet suggested by any anti-war activist, would call for investigations and even trials of those who made those unbelievable mistakes which we are now coming to understand so well.

It is not now clear whether America will have the courage to demand a comprehensive inquiry into the longest war in American history. It is always hard to look back and try to discover the sources and causes of one's sin. But it is possible that Lewy's book will be elevated into a popular tract by those who find America's loss of prestige painful. Lengthy reviews of Lewy's book in the *New York Times* (Nov. 19), the *New Republic* (Nov. 11), and the *New York Review of Books* (Dec. 7) may indicate that we are about to witness a literary autopsy on the April 30, 1975 death of the Republic of Vietnam. If that occurs, those who fought for years and years against the war in Vietnam may have to relive their nightmares and re-fight that war. If this develops, *America in Vietnam* will be the *locus classicus* of all the rationalizations, half-myths, false premises and misconceptions that tormented the American people from 1965 to 1974.

Trial by cupidity & capriciousness

CRIMINAL VIOLENCE, CRIMINAL JUSTICE
Charles E. Silberman
Random House, $15 [540 pp.]

Isidore Silver

EVERY SEVEN years, Charles E. Silberman appears like a plague of locusts to destroy overgrowths of "conventional wisdom" about our most pressing social issues. The creeping moss infecting both common sense and academic expertise about crime is particularly impenetrable since it takes two potent forms: a conservative James Q. Wilson-Ernst Van Den Haag strain and a Neo-Marxist-radical chic variety of significant, though limited, appeal. Silberman's pugnacious observation that "the follies of the right are at least as great as those of the left" demonstrates both a realization of the power of social myth(s) and a combative willingness to decimate the landscape. It is not terribly important whether one agrees with everything in this compendious tract; what *is* critical is that it will become the starting point and indispensable reference for all serious future analysis of both American crime and American Criminal and Social Justice.

Yes, much of the prose is overblown; yes, some generalizations (even, on occasion, important ones) are supported by rhetoric rather than real evidence; yes, there are no simple solutions—indeed, his final chapter is a distressingly perfunctory one; yes, some practices (such as sentencing) are too varying and complex to be reduced to easy formulas. Much of the book is, as Silberman concedes, not even original—for instance his argument that plea bargaining is in effect if not form "just" was anticipated by a wonderful, though little noticed, book, *Justice by Consent,* published only a few years ago by a law professor and criminologist. Perhaps there are even some academic studies that run counter to the blizzard of documentation rained down upon us, and perhaps a total survey of the "literature" in the field (Silberman seems to have read only *almost* everything) would qualify some of his bald conclusions.

But, the great bulk of the analysis should readily withstand attack, even from the ideologues. Certainly his belief that "Crime and violence are rooted in American life," his masterful dissection of crime rates to show that the low criminality of the 1930-1950 period was an aberration in American history, and his conclusion that "American crime is an outgrowth of the greatest strengths and virtues of American society—its openness, its ethos of equality, its heterogeneity—as well as of its greatest vices, such as the long heritage of racial hatred and oppression" are valid and constitute a vivid introduction to the remainder of his analysis.

That analysis is essentially a liberal one, a critique of American culture and society, phenomena *with* rather than *of* capitalism—it is apparent that our capitalism, a particularly avaricious brand, was largely shaped by a broad heritage of what Tocqueville called "cupidity" and that capitalism in turn reinforced certain onerous tendencies (though Silberman is indirect about this). "For all the thefts it endures, American business is more sinner than sinned against. . . ." and "Some entire industries appear riddled with fraud. . . ." are just some of the juicier findings. It is America's peculiar mix of macho frontier ethic, xenophobia in the midst of vast waves of immigration, and a physical restlessness (and rootlessness) that have combined with a virulent capitalism (untamed and unrestrained by even minimal aristocratic graces) to create an unusual criminogenic mix.

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To these factors, Silberman adds other liberal concerns. Thus, he unabashedly advocates gun control—"This explosive increase in the number of guns has transformed the technology, and thereby the character of street crime." His analysis of the relationship between poverty and crime echoes traditional liberal laments—"The close association of violent crime with urban lower-class life is the direct result of opportunities that are *not* available." Prison, long the bugaboo of liberal reformers, "plays much the same role in creating 'old boy' networks for crime that prep school or college does for diplomats or businessmen." On race, "We are not likely to secure any substantial and lasting reduction in black violence until [the income] gap is closed—until black Americans become full, participating members of American society."

Of course, his frank recognition that race is an important variable in violent crime (though not other forms) may offend some liberals who have not yet been mugged. That blunt recognition, Silberman's endorsement of plea bargaining, a tentative acceptance of the deterrence theory of criminal law—"the threat of punishment deters at least *some* crime"—may be hard for some liberals to swallow, but they may be comforted by the fact that their dosage of unpleasant medicine is much less than that administered to conservatives and neoconservatives.

A major problem with any conventional wisdom is that, right or wrong in particulars, it often tends to highlight and deal with the wrong problems. Silberman's most remarkable feat is simply to ask other, more relevant, questions. This is true, especially in the realm of criminal justice. Since police don't spend most of their time catching criminals, since very few officers (mainly patrolmen rather than detectives) account for a disproportionate number of quality arrests, and since even rapid police response time is meaningless when most victims fail to call the police immediately, why continue to focus upon gimmicks such as improved investigative techniques and new technology?

If plea bargaining is not only normal but desirable, then why not seek to improve it—as Detroit has done by requiring experienced district attorneys to sift "garbage" from "real" cases soon after arrest and by open pre-trial bargaining conferences with not only the defendant but the victim present? Why not retain reasonable judicial sentencing discretion in a system where, more often than not, hapless victims rather than hardened criminals are convicted and where definite sentencing proposals simply cannot distinguish between the two? Although dangerous youths should be treated severely by the juvenile justice system (in some cases, transfer to adult courts is necessary), is not the real horror juvenile court capriciousness—especially where "status" offenses such as truancy and "incorrigibility" have become a prime obsession?

Silberman's attack on the conventional wisdom(s) is not single-minded; he is not foolish enough to eschew intermediate solutions—"Even band-aids have their uses." While there is no doubt that the criminal justice system

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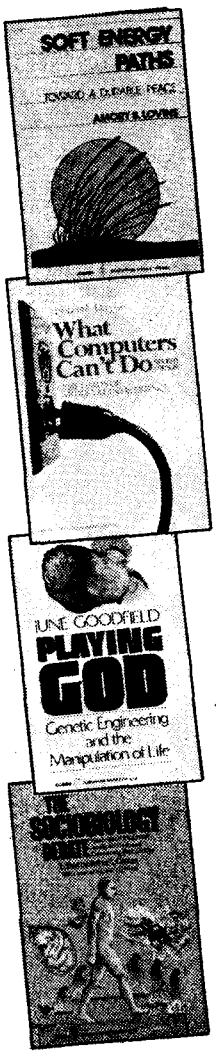

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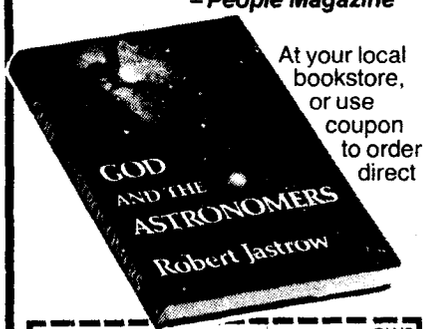

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must concentrate upon the "hard core," it often does not, and even if it did, temporary expedients would be clearly insufficient. Silberman is attempting to redress the balance between long- and short-term needs, a balance which has been dangerously thrown out of kilter by contemporary addiction to quick fix proposals—and he largely succeeds.

At base, Silberman shares William Muir's "tragic vision" of both crime and criminal justice. Muir's *Police: Streetcorner Politicians* defines the "good cop" as one who realizes that much of what he encounters is the result of society's brutalization of the poor; he refuses to become either cynical or withdrawn in the face of that tragedy nor does he become overly (and dangerously) sentimental. He adopts a compassionate "professionalism" much like that of the Oakland, California, police style rather than Los Angeles' aloof and callous counterpart. While the first style may encourage some corruption, the second's inhumanity will probably lead to widespread community cynicism. All police work, all criminal justice processes, are trade-offs, often of greater for lesser evils—and this is part of the tragic vision, perhaps its most significant part.

Silberman's decrying of the "terrible waste of human potential that our society countenances" refers not only to its immediate context, the waste of lives of many juveniles caught up in the maw of a beneficently poisonous process, but to an intermediate one as well, the spiritual diminution of the personae of policemen, prison guards, and many inmates; ultimately that insight extends to the great social costs of race prejudice and poverty. His powerful plea is that the tragedy of American life (often the dark side of our national optimism) be acknowledged and that such acknowledgment need not take the forms of either supine liberalism or harsh conservatism.

As Silberman's numerous critics begin to dismantle his analysis and conclusions from varying perspectives, they should understand that he has made a bold attempt to answer the questions once posed by a famous criminologist, "Why do all societies get the kind of crime they deserve?" Silberman has daringly told us much about just why we deserve what we have gotten. Come to think of it, he is not a plague of locusts but rather a Tocqueville who has come from the "outside" to tell us about ourselves; it should be remembered that Tocqueville's original mission to America a century and a half ago was to report upon the ambiguities of our "reformed" prison system. It should also be remembered that his breathtaking vision of this new nation was almost as tragic as it was optimistic—and that the tragedy was most apparent on questions of race and the criminal justice system.

Trial by torture

AUDACITY TO BELIEVE

Sheila Cassidy

Collins World, $8.95 [333 pp.]

Brian A. Haggerty

IN DECEMBER 1971, Dr. Sheila Cassidy, weary of the "academic rat-race of surgery in England," gathered her dog and thirty-three pieces of hand luggage and set off on a cargo boat for Chile. In December 1975, Dr. Cassidy was expelled from Chile and returned to England by air carrying only the clothes she wore and a suitcase hastily packed for her by the British consul. *Audacity to Believe* is a story of what happened to Sheila Cassidy—and to Chile—in the intervening four years. It is the personal chronicle of the growth toward spiritual maturity of a woman who arrived in Chile as a fairly conventional middle-class doctor and left a confirmed Christian humbled by the total commitment of those who were prepared to die to change Chile's system of self-propagating social misery. It is also an eye-witness account of the violent overthrow of the first democratically-elected Marxist government in history and the coming to power of an oppressive military regime whose crimes against

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humanity are now well-documented.

Sheila Cassidy did not go to Chile for political or humanitarian reasons. She went quite simply because she was disillusioned with her prospects as a surgeon in England and wanted to gain needed surgical experience in an underdeveloped country where there was less competition and easier hours.

Once in Chile, Dr. Cassidy had to endure the shortages of vital consumer goods and the nationwide strikes that plagued the struggling government of Salvador Allende. Only later did she realize that such shortages and strikes were due not to government ineptitude but to the coldly calculated actions of "rich men who were determined not to lose their wealth." Only much later—long after the military coup of September 1973—did Sheila Cassidy, like the rest of us, learn of the incredibly arrogant intervention by the CIA, first to prevent Allende from being elected and then to bring down his government.

After suffering for six months from culture shock, complicated by her own insecurity, Dr. Cassidy settled into the medical training for which she had originally come to Chile. That training, arduous at times because of her initial inability to master Spanish, continued well after the coup. During that period she experienced a rekindling of her Catholic faith. The death of her closest friend led Dr. Cassidy to seek refuge in God whom she had long ignored. Her introduction to Catholic missionaries, who had cast their lot with Chile's poor, lay open before her the meaning of the Gospel.

Gradually Dr. Cassidy's medical training brought her face-to-face with the social misery which had prompted Allende's Marxist experiment. She set up practice in a small shanty town clinic serving some of Santiago's marginal people. She came to realize that she was only "sewing a very small patch on the threadbare garment of their existence."

Early one morning, four months after setting up her clinic, she was approached by a Chilean priest friend and asked if she would treat a man with a bullet wound in his leg. She realized that the wounded man belonged to Chile's outlawed revolutionary leftist party. She knew that if her treatment of him came to light, her work in Chile might be ended. Though she had not sought or prepared herself for that moment, she unhesitatingly answered, "Yes." Neither medical nor Christian ethics would allow otherwise.

Within a week of her treatment of the wounded revolutionary, Sheila Cassidy was arrested. She was repeatedly subjected to electric shock torture until she was forced to reveal who had hidden the wounded man and arranged for his treatment. The period of interrogation and torture was followed by eight weeks during which Dr. Cassidy was confined in a variety of prisons and made to endure a mockery of a trial. She describes her brutal experience factually, "that it may be known how political prisoners are treated . . . in countries where torture is institutionalized as an instrument of interrogation and repression."

There was a positive side to her otherwise appalling experience and Dr. Cassidy describes it as well. While in prison she met a number of other political detainees who "obeyed more truly and more instinctively than any Christian I knew the most devastating of Christ's commandments, 'You shall love your neighbor as yourself'." The selfless example of those young revolutionaries renewed for her the meaning of commitment and total giving. And it revealed how much of self-indulgence still filled her life.

Sheila Cassidy was finally expelled from Chile on December 29, 1975. Though *Audacity to Believe* appears now some three years later, it conveys a sense of immediacy that makes it difficult to tuck the tragedy of Chile away in the dark recesses of one's memory. Sheila Cassidy tells her story simply, forthrightly, with no pretentions of being a heroine. What she has written deserves to be read and acted upon.

The title of this book is taken from Martin Luther King, Jr.'s, 1964 Nobel Prize Acceptance Speech: "I have the audacity to believe that peoples everywhere can have three meals a day

REVIEWERS

FATHER ROBERT F. DRINAN, S.J., *represents the Fourth Massachusetts District in the House of Representatives. He is the author of* Honor the Promise *(Doubleday).*

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BRIAN A. HAGGERTY *is working on a book tracing the influence of Martin Luther King on the development of the social gospel tradition in America.*

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JOHN CUTTER *is a Fordham student who recently completed an internship at* Commonweal.

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for their bodies, education and culture for their minds, and dignity, equality and freedom for their spirits." Sheila Cassidy has given eloquent testimony to that audacious faith.

In brief

CHRIST AND THE MEDIA, *by Malcolm Muggeridge, Eerdmans, $5.95 [123 pp.]*

Malcolm Muggeridge, one of Britain's best known TV personalities, airs his colossal contempt for all the media in this little volume comprising three lectures with audience responses. In his *Jesus Rediscovered* (1969) he revealed his new-born faith in Jesus and now finds TV and the other media irreconcilable with Christian faith. The cynic who was skeptical of American evangelists has become an apostle of the Kingdom.

Muggeridge sees TV involved in a vast brainwashing operation that corrupts all traditional standards and values, leaving us awash in a sea of erotic and self-centered fantasy. Jesus himself was a communicator but Muggeridge claims that had the Lord himself met with a fourth temptation in the desert, this time an offer to preach the Gospel on prime TV, he would have turned down the temptation and preferred the way of the cross as the means of communicating his message.

The *enfant terrible* who charmed, provoked and infuriated his British audiences is here at his creative best in this volume, at least in his dexterous felicity with words and his colorful imagery, but his generic condemnation of all media is just too, too much. He says: "If you want to know my absolutely candid opinion, I think the best thing to do is not to look at television and to that end, I have, as has been said, disposed of my set." TV and other communications media have unquestionably been exploited or misused, but abuse of God's blessing is no valid argument against proper use. It only argues that the redeemed who misuse TV need to be more redeemed and more selective at the tuning dials.

JOHN B. SHEERIN

IN SOLITARY WITNESS: THE LIFE AND DEATH OF FRANZ JÄGERSTÄTTER, *by Gordon Zahn, The Liturgical Press, $4.95 paper [277 pp.]*

Martyrs disturb the general calm of our lives. They force us to probe the limits of our conscience and our faith, pointing to the weaknesses in our moral and spiritual lives and, in comparison, trivializing our ethical choices. By either idealizing their suffering—stressing the "solace" they found in death—or by viewing them as extreme religious fanatics, we quell the uneasiness their stories inevitably cause.

Franz Jägerstätter's life is not so quickly objectified as sainthood or subjectified as insanity. This young, uneducated Austrian peasant-farmer and father of three daughters was beheaded in 1943 for refusing to serve in Hitler's army in a war which he considered unjust and under a regime which persecuted his church. Gordon Zahn, who has written on German Catholic capitulation to the Nazis at length in *German Catholics and Hitler's Wars*, treats Jägerstätter as a possible saint, at one point drawing a somewhat strained parallel to St. Thomas More. Zahn sees in Jägerstätter's act—in his unwavering commitment to his conscience, despite numerous pleas to serve from his family, friends and priests—an example which should challenge all to reassess their order of priorities.

The book, which was originally published in 1964 to record the then-unheralded "heroic sacrifice," is divided into two parts: a narrative-analysis of the events leading up to Jägerstätter's execution in Berlin, compiled from letters from prison and interviews with relatives, friends and several priests and prison chaplains he encountered; and the complete text of nine "commentaries" he wrote before his imprisonment. These writings are distinguished for their extensive knowledge of the Bible (he was a sexton) and for their acute perception of the conflict between duty to country and faith in God, a commitment above that to nation, community or family.

The story is fairly well-known now, with editions in several languages. Reissuing the book now, just as the memory of Vietnam is fading, is a significant and timely gesture. Zahn, the pacifist, is not directly concerned with that philosophy here but with "the ever-recurring confrontation between Caesar and Christ." Zahn draws conclusions here similar to those in his other works, specifically, that no one ought to render automatic support to "legitimate authority"; that religious communities are responsible for endangering dissent against all injustice; and that the individual Christian must inform his conscience to be able to make ethical decisions and take individual moral responsibility. Religious

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men must, as Jägerstätter, refuse to participate in what they deem unjust or immoral.

Zahn does not expect all to be saints; instead, he wants all to realize that "no witness is wasted. It saves your soul, and maybe the souls of some others." Altogether, this is an excellent book to keep handy when some inspiration, or a little ego-deflation is needed. JOHN CUTTER

Correspondence

(Continued from page 34)

pose" for legislation which our Constitution requires. EVE W. PAUL
Director of Legal Services
Planned Parenthood Federation

Widening the gap

New York, N.Y.

To the Editors: Your editorial "Do Catholics Have Constitutional Rights?" [Dec. 8], has succeeded in widening the gap of understanding of the abortion rights crisis among religious groups. You have misrepresented the position of this organization.

As a plaintiff in the suit *McRae vs. Califano*, The Women's Division, Board of Global Ministries of The United Methodist Church, has attempted to present to the court these basic points:

1. That a conscientious decision whether to terminate or continue a pregnancy in accordance with the principles of responsible parenthood is a religious obligation for us.
2. That the efforts of some religious groups to enact the absolutist position on abortion *in effect* would enforce one religious belief on those who believe otherwise; and, thereby interfere with our free exercise of religion.
3. That the tragic effect of the Hyde Amendment on poor women to coerce unwanted and health threatening childbirth, extra legal abortion and sterilization is inconsistent with our moral and ethical practice of religion.

In your attempt to describe our position, you have caricatured our faith stance with insensitivity. You do not seem to comprehend the depth of our faith commitment in a matter such as this, which has compelled us to plead before the court for *our* right to *free exercise* of religious conscience and that of other women who hold similar beliefs.

You speak of the constitutional rights of religious groups, particularly of Catholics, who do not wish to see their taxes used for a medical procedure which they hold to be immoral. If your logic were to be followed, how would you regard the constitutional rights of tax paying Jehovah's Witnesses who deem blood transfusions abhorrent? Should their religious code be imposed on Medicaid recipients who do not hold such religious beliefs? Obviously not. Moreover the Medicaid program guarantees recipients freedom of conscience in decisions about medical care. Those who view blood transfusions as a sacrilege are entitled to alternate treatment. Only poor women who determine that abortion is a moral choice are denied a right to conscience.

We would fight just as hard against a reverse Hyde Amendment that only paid for abortions and sterilization to preserve the religious and conscientious decision of pregnant women for whom childbirth is the moral course.

In no way is our organization attempting to "disenfranchise all religious viewpoints form an active engagement in the political process," as you claim. Our history as an organization which views social concern as resting at the heart of Christian mission would preclude such a stance.

The issue here is not a question of valid religious participation in societal concerns, but rather one of control. When there are so many varying religious viewpoints on abortion our concern is that the force and power of goverment in the Hyde Amendment supports one religious viewpoint to the exclusion of all others.

THERESSA HOOVER
Associate General Secretary
Board of Global Ministries,
The United Methodist Church

Baring their clause

New York, N.Y.

To the Editors: The thoughtful editorial on *McRae v. Califano* [Dec. 8] lifts up most of the crucial questions in a case that has received all too little attention. In this suit I was one of the witnesses for the defense who attempted to document the many and necessary ways in which moral judgment informed by religious belief interacts with public policy in a democratic society. I was struck by the uncanny climate of a hearing in which socially activist Christians—in this case Methodists—were pleading that the government should prohibit precisely the kinds of activities in which they are themselves so deeply engaged. The assumption, not very well hidden, is that of course their engagement is different; they act out of enlightened and universal principles rather than sectarian motives, and they act as free citizens not under intellectual duress. In short, they are not Roman Catholics.

Then too, it seems to some of our separated sisters of the Methodist Women's Division that anxiety about the unborn or about the definition of human life is so patently non-rational that it could only be prompted by dogma reinforced by ecclesiastical coercion. They do not challenge the bishops' more reasonable efforts to influence legislation on housing, unemployment, and a host of other issues on which "people of good will" are of like mind. The influence of religion should not only be countenanced but should be celebrated when it advances what I want advanced.

Since *Commonweal* is edited by and (mainly) for Catholics, it is understand-

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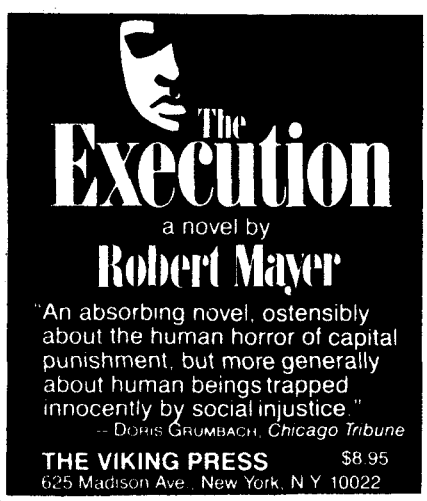
able that your editorial is titled "Do Catholics Have Constitutional Rights?" As your editorial suggests,however, the challenge—while tainted by anti-Catholic impulse—is directed against all believers and even non-believers who understand that democratic polity requires a living relatonship between public policy and the most deeply held convictions of the people. Without such a relationship, the moral legitimacy of the polity is thrown into question. On this score you are perhaps too kind to the ACLU. You say the ACLU should be as solicitous of the First Amendment rights of Catholics as it is of Nazis who want to march in Skokie. But in the ACLU viewpoint the cases are not analogous, dealing as they do with different clauses of the First Amendment. The ACLU tends to have an unqualified—one might say dogmatic—position with respect to the free expression clause, as it does also toward the no-establishment clause, while its posture toward the free exercise of religion is considerably less certain.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The importance of *McRae v. Califano* goes far beyond the abortion debate as important as that debate continues to be. It dramatically poses the questions whether, or in what sense, is ours a secular society, and whether, or in what ways, is the state to exclude the beliefs of the citizenry from its deliberations?

RICHARD NEUHAUS
Senior Editor, *Worldview*

Religious liberty for all

New York, N.Y.

To the Editors: Your December 8 editorial "Do Catholics Have Constitutional Rights?" distorts not only the First Amendment challenge to the Medicaid abortion restrictions we are presenting in *McRae* v. *Califano,* but also the principles of the First Amendment itself.

It is clear from the legislative history of the Hyde Amendment that the purpose of the legislation was to protect what its proponents believe to be actual human lives. According to this view, any fetus—one minute old, one day old, one month old—is fully human, and indistinguishable from an infant, and therefore abortion is murder.

But when human life begins is essentially a religious question. There is no scientific consensus on this question, and no religious consensus either. Most religions teach that a fetus is not a human being. Other religions, such as the Catholic religion, believe, as a matter of faith, that the fetus possesses or may possess a soul from the moment of conception. The current controversy over abortion is therefore a controversy over religious doctrine.

No one of us questions or challenges the right of Catholics voluntarily to observe the Catholic teaching on abortion. Nor does the lawsuit challenge the rights of Catholics to petition, demonstrate, lobby or sermonize against the right to abortion. But anti-choice Catholics, like Mormons, Orthodox Jews or fundamentalist Protestants who support the present campaign to restrict abortion for the most vulnerable—poor pregnant women—have no more right to enact their religious beliefs into law than Jehovah's Witnesses who view blood transfusions as a sacrilege or fundamentalist Protestants who were responsible in the 1920's for the "monkey" laws prohibiting the teaching of evolution in the schools. Just as today's opposition to anti-abortion laws draws accusations of anti-Catholicism, so in the 1920's opponents of the "monkey" laws were labeled "anti-Christian."

Unfortunately, the cry of religious bigotry is a smoke-screen for religious intolerance. Absent from your editorial and from the anti-abortion mobilization is respect for the dictates of religious faith and conscience which teach that abortion may be a moral, loving, and religiously required choice.

Let us start from the premise, which I trust we share, that the goal of the Medicaid program to provide comprehensive health care coverage for the indigent is necessary, just and humane. A cardinal principle of the program is that no one may be coerced or pressured to abandon conscientious beliefs affecting necessary medical care. Thus, a Jehovah's Witness is entitled to refuse a blood transfusion, and a woman of Catholic faith or otherwise is guaranteed this same freedom, to refuse or to choose, with respect to family planning services.

In the entire Medicaid program, only the woman whose faith and convictions dictate abortion is denied this right to conscience. The indigent Protestant woman who believes that responsible parenthood necessitates a decision whether or not to continue a pregnancy is pressured to forego her religious duty; so is the Jewish woman whose faith teaches that she place her health and well-being and that of her existing family above the existence of the embryo.

The State does not remain neutral by withdrawing funding for abortion. Nor does it, as you suggest, "subsidize" the free exercise of those who believe in the necessity and right of choice. The abortion restriction discriminates based on religious or conscientious choice just as would paying for health care needs of children attending Orthodox Jewish schools but not those attending Roman Catholic or public schools. Neutrality is

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preserved only by allowing freedom of choice in accordance with individual conscience.

Your earlier editorials criticizing the official anti-abortion mobilization gives voice to one of the fundamental concerns of the guarantee of separation of church and state—that religion degrades itself when it seeks State power to enforce and impose even its deepest beliefs. It is therefore disappointing that *Commonweal* appears to join the ranks of those who cry religious bigotry instead of joining with plaintiffs who seek to preserve religious liberty for all.

If today's legislative majority can force poor women to bear children, tomorrow's majority can refuse contraception or childbirth and fund only abortion and sterilization. We should be allied in the struggle to transcend and, thereby, respect the colliding moral beliefs on abortion. The First Amendment is the ultimate guarantor of religious pluralism and the right of conscience of all.

RHONDA COPELON
Counsel
Center for Constitutional Rights
IRA GLASSER
Executive Director
American Civil Liberties Union
JANET BENSHOOF
Counsel to the Reproductive Freedom
American Civil Liberties Project

Is there an ACLU?

Washington, D.C.

To the Editors: Your editorial "Do Catholics Have Constitutional Rights?" [Dec. 8] is an excellent statement of an issue that has enormous implications. By what right are we Catholics to be denied access to the political process? In an open society, surely political advocacy ought to be encouraged by groups whose professed goals are the enhancement of civil liberty.

If moral values are to be denied legislative expression, then we are left only with force as the final arbiter between right and wrong. Have we learned nothing from the Holocaust?

The ACLU has urged before the House Subcommittee on Criminal Justice that we listen to the collective voice of religion in opposing the death penalty. When the object of their solicitude is a convicted murderer, apparently such voices are indeed Constitutional. Why is this also not true when the life to be saved is an innocent unborn child?

Wouldn't it be nice if there really *were* an American Civil Liberties Union?

HENRY J. HYDE
House of Representatives
6th District, Illinois

For further comment on this subject, see editorial on page 35. —*THE EDITORS*

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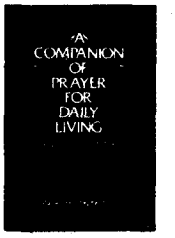

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